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Supreme Court, U.S.
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No. _____

In The

Supreme Court of the United States

SHAHLA POURGHOLAM,

Petitioner,

v.

ADVANCED TELEMARKETING CORP., d/b/a AEGIS COMMUNICATIONS GROUP INC,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

SHAHLA POURGHOLAM
PRO SE PETITIONER
P O BOX 824[redacted]
DALLAS, TX 75382
shahlap@msn.com

May 2006

QUESTIONS PRESENTED

(1) Whether the court of appeals decision can overturn basic and previously well understood requirements for the review of administrative law knowing that a most basic tenet of administrative law is that when the court's decision is in contrary to existing laws, in contrary to the United States Supreme Court's precedent, in conflict with the decision of the other courts, in contrary to Fifth Circuit Court decisions, and that the decision is substantially disproved by the record, then it is the duty of the court to review, reverse, and remand the decision(s).

(2) TCHRA and Title VII of Civil Rights Act of 1964, as amended, states that an employer is liable for tangible and intangible damages for intentional infliction of emotional distress, discrimination, and disparate treatment based on the age, race, color, national origin, disability, religion, sex, sexual harassment, harassment, and retaliation, et seq. As such, does Aegis employment Policy and Practice of requiring (2.1) Employment Application; (2.2) Background Check, (2.3) Hiring Children seventeen years old or younger (16 years old); (2.4) Use of Mystery Caller and Quality Assurance by members of management from anywhere that a phone is available; (2.5) Sale of Local and International Child and Adult Porn through Aegis and/or Aegis Clients, (2.6) use of QA Conference Room which is secured with magnetic strip, (2.7) use of surveillance cameras and searches

while an employee is on Aegis property; and (2.8) retaliating, exposing and/or causing to be **exposed to partial nudity, prostitution, and hostile work environment while hiring Registered Sex Offender(s) and Criminal(s) as Agent(s) and/or Supervisor(s) in violation of Parole and in violation of** Texas Criminal Code of Procedure, Article 42.12, Texas Code of Criminal Procedure, Article 21.14(a); Texas Penal Code Chapter 20.02, 20.04(a)(4), 20, 21, 22, 30.02, 43.26, Texas Code of Criminal Procedure § 7 – § 7.01 (a); § 7.01 (b); § 7.01 (c), Texas Code of Criminal Procedure § 7.02 – § 7.02 (a)(2); § 7.02 (a)(3); § 7.02 (b); Federal Telecommunication Commission Rules, Sec. 64.1200, USCA 18 § 1503 and 1623 **violates** Plaintiff's State and Federal TCHRA and Title VII, as amended, U.S. Constitution. Fourth Amendment, and U.S. Constitution Fifth Amendment.

(3) USCA 18 § 1503 and 1623 as well as Texas Code of Criminal Procedure, Article 21.14(a) states that obstruction of justice and perjury before is unlawful. As such, can Aegis obstruct justice, commit perjury, and mislead the court and the jury about Plaintiff's Foley's Employment Record, Manpower Employment Record, Defendant's Relationship with Defendant's Expert(s) and Expert Witness (es), "Steen's" character, Irving Police Officer Mark Talley's misconduct in investigating Aegis and "Steen", Irving Police Officer Mark Talley's two charges of indecency with a child younger than fourteen years old; Irving Police Officer Miller use of excessive force against a Hispanic man during a traffic stop; Sale of Local and International Child and Adult Porn,

withholding the medical records of those that had forced abortion and/or were sent to psychiatric centers, presenting tampered audio tape as original tape to the court and the federal grand jury, withholding and destroying surveillance camera tapes that would prove sexual assault and/or harassment and/or other violations of federal and state laws, producing false alibis, withholding information about other discrimination complaints against Aegis, withholding information about Aegis direct and/or indirect insurance companies and their associated doctors, publicly defaming Plaintiff's character before the court and the jury; and causing Plaintiff's case and claims to be dismissed

LIST OF PARTIES

PETITIONER:
Shahla Pourgholam, Pro Se Petitioner, Appellant.

RESPONDENT:
Advanced Telemarketing Corp., d/b/a Aegis Communications Group, Inc.,

Alisa L. Pittman, Attorney for Respondent/Appellee
Advanced Telemarketing Group d/b/a Aegis Communications Group, Inc.

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As a condition of his parole Darryl Steen was not to go in, on, or about **where** children commonly gather**, nor shall he supervise** or participate in any program that includes as participants persons who are 17 years of age or younger.....6

Darryl Steen is not to **possess,** or to cause to **be purchased or** subscribed to, any literature, or videotapes **which** depict sexually explicit images**,** nude or partially nude people**, nor communicate or cause to communicate with a person for sexually explicit purposes through telecommunications or any other electronic means, including 1-900 services**.....6

Darryl Steen is not to cause to communicate with a person nude or partially nude **people**.....6

As a condition of his Parole Darryl Steen is not to own, posses, use, prohibited weapon or illegal weapon nor attempt or threaten to use any tool, implement **or object to** cause or threaten to cause any bodily injury.....6

As a condition of his Parole Darryl Steen is not to associate with persons of criminal background.....6

Darryl Steen was under mandatory Sex Offender Supervision and had to adhere to curfew **specified by his supervising parole officer**.....6

As a condition of his parole Darryl Steen is assigned to the highest level of supervision caseload.....6

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Darryl Steen is not to participate in any volunteer or volunteer any services **without prior Board Panel approval**.....6

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OPINION BELOW

The opinion of the United States Court of Appeals for the Fifth Circuit that gives rise to this Petition has been designated for limited publication or is unpublished and it is reprinted in Appendix D hereto.

STATEMENT OF JURISDICTION

The date on which the United States Court of Appeals for the Fifth Circuit decided my case was on February 7th, 2006. Appellant's Petition for Panel Rehearing was postmark on February 21st, 2006. Appellant's case was dismissed because the court had quoted Defendant's assertion that the court and the jury had favored Defendant. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). In accordance with Supreme Court Rule 13.1, this petition had been filed within 90 days of the date of the entry of the order on February 7th, 2001.

CONSTITUTIONAL PROVISIONS, STATUTES, REGULATIONS, DEFENDANT'S EMPLOYEMENT POLICIES AND PROCEDURES INVOLVED, AND "STEEN'S" TERMS AND CONDITIONS OF PAROLE

Federal Rules of Evidence 415 - Requires disclosure of history of Sexual Assault Convictions to the Jury. Particularly, if Defendant had lied or denied sexual assault convictions.

Relevant Portions of Texas Code of Criminal Procedure, Article 42.12 - It is unlawful for employers to hire Registered Sex Offenders if the company has hired children 17 years of age or younger because Registered Sex Offenders are not to be in/on/about where children 17 years of age gather nor Registered Sex Offenders are allowed to Supervise children 17 years of age or younger.

Relevant Portions of Texas Code of Criminal Procedure § 7 – § 7.01 (a); § 7.01 (b); § 7.01 (c) is reprinted at Pet. APP-K-43.

Relevant Portions of Texas Code of Criminal Procedure § 7.02 – Criminal Responsibility for Conduct of Another - § 7.02 (a)(2); § 7.02 (a)(3); § 7.02 (b) is reprinted at Pet. App-K-44.

Relevant Portions of Texas Code of Criminal Procedure, Article 21.14(a) – Perjury and aggravated Perjury before a grand jury is unlawful.

Relevant Portions of Texas Penal Code 20.02 and 20.02 – Kidnapping and unlawful restraint is unlawful.

Relevant Portions of Texas Penal Code 20.04(a)(4) – Aggravated kidnapping with the intent to violate the victim sexually is unlawful.

Relevant Portions of Texas Penal Code, Chapter 21 – Obscinity is unlawful.

Relevant Portions of Texas Penal Code, Chapter 22 – harassment and threats against an individual is unlawful.

Relevant Portions of Texas Penal Code 30.02 – Burglary with the intent to violate the victim sexually is unlawful.

Relevant Portions of Texas Penal Code 43.26 – Possession or Promotion of Child Pornography is unlawful.

Relevant Portions of Federal Telecommunication Commission Rules, Sec. 64.1200 – transmission of obscine material through telecommunication devices are unlawful.

TCHRA and Title VII of Civil Rights Act of 1964, Section 704 (a), 42 U.S. C. § 2000e-3(a), et seq; Section 706(g), 42 U.S.C. § 2000e-5(g); as amended. 42 U.S. C. § 1001 et, 42 U.S.C §2000e, et seq. 1964, 1983, 1991,42 U.S. C. § 2000e-5(f)(3), Tex. Lab. Code § 21.051 (1), et seq; the common law of the State of Texas, the Constitution of the State of Texas which is reprinted at Pet. APP-K-41 to K-42.

USCA 18 § 1503 and 1623 - Obstruction of Justice and Perjury before federal court and the federal grand jury is unlawful.

USCA 18 § 1518 - Tampering with evidence, Destruction of Evidence, Withholding evidence is unlawful.

Texas Local Rules, Section III – Attorney's – AT-8 (b) – Appointment of an attorney in Title VII Case.

Improper Argument – J- § 4, incurable harm caused due to egregious argument before the jury; § 5.1 incurable argument to the jury so prejudicial or inflammatory that an instruction to the jury to disregard it cannot eliminate its

harm; § 6 Injurious, unwarranted, and substantial prejudice for improper remarks and false records presented to the jury.

Federal Rules of Civil Procedure – Court Contempt – FRCP 45, Subpoena(s); FRCP 56, presenting Declarations in Support of Summary Judgment in bad faith; FRCP 53, Defendant's Witnesses failing to appear; FRCP 11 and FRCP 60 misconduct; FRCP 26 and 33 answers to interrogatories and request for production of documents; FRCP 37(c)(2) and 26(a) failure to admit and failure to disclose information; FRCP 37(b) sanctions for failure to provide requested discovery.

Relevant Portions of Federal Rules of Evidence 609(a)(1), 609(b) – Evidence that offers probative value "substantially" outweighs the prejudicial effect.

Relevant Portions of FRE 704. 705, 706 – Exclusion of Expert Witness Testimony.

Relevant Portion of FRE 801, defamation of character is unlawful.

Relevant Portions of FRE 101 to 1001, these rules will be reprinted only if there is a need to refer to them.

The Forth Amendment to the United States Constitution states in relevant part:

The right of the people to be secure in their person, papers, and effects, against unreasonable searches, shall not be violated.

The Fifth Amendment to the United States Constitution states in relevant part:

No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Administrative Procedure Act, 5 U.S.C.§ 702, 703, 704, 706 in relevant part is reprinted at Pet. APP. K-42 to K-43.

Aegis Employment Polices and Procedures in relevant parts:

Aegis employee Policy to stop applicant to vote for unions because Aegis will continually will provide pay raise. [Also, please see R. #89].

Aegis employee policy to cut Plaintiff's pay. [Also, please see R. #45, #99, Page 281].

Aegis Employment Policy requirement to complete **employee application** as pre-employment and post-employment condition with Aegis and specifically question applicant if the applicant has ever been convicted of, pled guilty to, been placed on probation for, or been subject to deferred judication for a criminal offense and the explanation for such offenses. [Also, Please see Defendant Trial R. 101].

Aegis employee Policy requirement to process **background check result** before hiring applicants and to make applicant background check, character, mode of living, drug testing, and alcohol testing as pre-employment and post-employment condition of applicant's employment with Aegis. [Also, please see Appellant Record Excerpts, Exhibit 5, Page SP-77].

Aegis Employee Policy requirement that Aegis does hire children 17 years of age or younger. (Sixteen years old or younger). [R. #45, Page 566].

Aegis employee Policy that employees are not to share employee sign in IDs. [R. #45; R. 56, Exhibit 7, Page SP-88].

Aegis employee EEO Policy to treat employees like son, daughter, spouse, etc. [Plaintiff's Trial Exhibit 12, SP-89].

Aegis at Will Policy that causes support for Aegis internal corporate crimes. [R. #45, R #99, Trial R.166].

Relevant Police Reports from Defendant's Irving, TX facility is reprinted at Pet. App. Q-51.

Relevant Portions of Government Code § 508.187 – 62.102, Failure to comply with Registered Sex Offender Parole Requirements is unlawful.

Darryl Steen's Terms and Conditions of Registered Sex Offender as required by Texas Board of Parole are reprinted at Pet. App. L-45 to L-46. [Appellant R. Excerpts, Tab 11, SP-238, SP-239, SP-240; Please also see Appellant R. Excerpts, Tab 11, SP-479 and SP-480, Tab 11, SP-71, SP-72, SP-475, SP-242, SP-243—Charges for Child and Adult Porn].

STATEMENT OF THE CASE

This case arises from State and Federal TCHRA and Title VII of Civil Rights Act of 1964, as amended. On October 19th, 2001, Plaintiff timely filed her TCHRA charge of discrimination within 180 days, and Title VII charge of discrimination within 300 days with EEOC against her employer Advanced Telemarketing Corp., d/b/a Aegis Communication Group Inc. Aegis failed to take any remedial action even after Aegis had received Plaintiff's charge of discrimination **No**. 310A20130 and notice of the Right to Sue from EEOC.[1]

Thus, on December 19th, 2001, Ms. Pourgholam filed suit in federal district court against her employer, Advanced Telemarketing Corp., d/b/a Aegis Communications Group Inc for violation of her rights under State and Federal TCHRA and Title VII as amended.[2]

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[1] [R. #56, Exhibit 1, Page SP-1 to SP-9, Appellant's USCA Record Excerpts, Tab 4, Page SP-1].

[2] [R.1; R. 2, R. 3; R. 171, filed on 03/18/2005, R. #166, filed on 03/17/2005; R. #48, filed on 10/15/2002; R. #89, filed on 02/03/2004, R. 149, Page 2, top paragraph; discrimination based on Plaintiff's national origin, harassment by co-worker, retaliation, disparate treatment based on national origin, intentional infliction of emotional distress, discrimination in hiring, discrimination in demotion, discrimination in promotion, discrimination in termination, disparate treatment based on sexual harassment (sex), wrongful termination/constructive discharge of her employment effective September 27th, 2001, hostile work environment, and sexual harassment by her immediate supervisor Darryl Steen which was made a condition of Ms. Pourgholam employment and caused Ms. Pourgholam to suffer adverse employment condition; Darryl Steen was and is Under Mandatory Sex Offender Supervision and at the time that he Supervised Ms. Pourgholam].

During the time that Plaintiff was working for Defendant Plaintiff had asked to receive a copy of Surveillance camera tapes as well as audio and video tapes of the calls that Plaintiff had received **from April of 2001 to September of 2001** while **"Darryl Steen"** had been Plaintiff's **direct Supervisor**, in addition Plaintiff had reported to Aegis Human Resources Representative, Lisa Lewis, that Darryl Steen and DJ Williams were sexually harassing Plaintiff.[3] Defendant refused to produce these records. In addition, during the course of this case, Defendant had refused to fully and completely answers to Plaintiff's First Set of Interrogatories and First Request for Production of Documents. As such, Plaintiff had filed Motion to Compel Defendant to fully and completely answers to Plaintiff's First Set of Interrogatories and Production of Documents.[4]

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[3] [Plaintiff's USCA Record Experts, Tab 8, Page SP-56, Lisa Lewis's email on 07/06/2001 to Darryl Steen, David Walker, Mary Mullen, and Todd Baker, Lisa Lewis's Handwritten Notes, Tab 8, Page SP-53, Call from Trina Bitch, Tab 8, Page SP-54; Defendant's Trial Record, Exhibit 100, Handwritten Notes of Lisa Lewis, Pages ACG-00213, ACG-00215 on 07/06/2001, ACG226-00229 on 07/09/2001; Plaintiff's Trial Record, Exhibit #34, Call from Trina Bitch on 07/06/2001-ACG-00218 Call from Trina Bitch on 07/02/2001-ACG-0422, Call from customer with profane and abusive comments on 07/02/2001-ACG-00314, and Call from Rev. John Stillwell with calling card "Suck my dick" and "Fuck You" phone number 510-632-6733; Defendant's Trial Record, Exhibit #18, Plaintiff's Termination Review, Steen's Handwritten Notes on the bottom of the page, Plaintiff reported harassment, also Johnnie Reagler failed to report the harassment to authorities and the two did not use proper Termination Form, PAF Form, that requires Center Director's signature before termination.]

[4] [Please see R. Defendant's Appendix for Summary Judgment #45 on 09/30/2002, **Plaintiff's Motion to Compel, the district court record #48 and #49 filed on 10/15/2002, Plaintiff's Motion to Compel #89 on**

Moreover, the judge presiding in this case was changed from Honorable Judge Joe Kendal to Honorable Judge Barefoot Sanders. [Please see R. 8, filed on 01/24/2002]. Also the Court Reporter was changed from Joe Belton to Shawn McRoberts. [Please see R.170 filed on 03/17/2005; R 172, filed on 03/21/2005].

Furthermore, Plaintiff had requested for the Court to provide an attorney in this case so that this case could be adequately represented in the interest of Plaintiff's TCHRA and Title VII claims. [R 72 filed on 12/23/2002; and R 76, Order Granting Plaintiff's Motion to Appoint Counsel; Texas Local Rules, Section III – Attorney's – AT-8 (b) – Appointment of an attorney in Title VII Case].

In addition, Plaintiff did not accept Defendant's settlement offers because it was not assuring Plaintiff that Defendant would not commit acts in violation of TCHRA and Title VII in the future. [R. 88, on 01/13/2004; R. 111, on 06/15/2004]. Therefore, Defendant obstructed justice, committed perjury, withheld evidence, destroyed evidence, tampered with evidence, defamed Plaintiff's character in order **to deprive** Plaintiff's rights under State and Federal TCHRA and Title VII, as amended, to cause Plaintiff's case to be dismissed in part through partial summary judgment and in part through a misled federal grand jury's verdict.[5]

02/03/2004, Defendant's Second Motion for Summary Judgment filed on 02/25/2004, #97 - #99; each time Plaintiff had requested discovery, Defendant had submitted Defendant's Motion for Summary Judgment in order to avoid producing the requested discovery].

[5] [Please see the district court record #45 and R. #99; R. #48 and #89, R. #149, Page 2, Top paragraph, district court's Order directing

Plaintiff timely appealed this case to the Court of Appeals for the Fifth Circuit. [R. 180, filed on 03/25/2005, Notice of Appeal, and R. 04/23/2005, Notice of Amended Appeal]. The question that Appellant had presented to the Court of Appeals for the Fifth Circuit was whether Defendant could obstruct justice, commit perjury, and mislead the court and the jury and cause Plaintiff's causes of action to be dismissed. However, on February 7th, 2006, the Court had dismissed each/all Plaintiff's claims. The Court of Appeals for the Fifth Circuit affirmed the district court decision(s), holding for the first time that Plaintiff's case is **frivolous** because the court and the jury had **favored** Defendant.[6]

Defendant to produce Darryl Steen and David Walker's employee application and background check or conform to rule 34 that Defendant does not have such records in its possession; R #166, Plaintiff's Amended Pretrial Order, Plaintiff's objection to Defendant's defense agreement as to stipulated facts, exhibit list, and jury instruction in R. #159, R. 161, R. 162, R. 163 as well as R. 153, R. 158, R. 165; ROA, USCA5 Records, Pages 960 to USCA 981, Plaintiff's Exhibits USCA 960 to USCA 965 top half of the Page, Defendant's Exhibits bottom half of page USCA 965 to USCA 981; Defendant had entered into defense agreement with Plaintiff's attorney to "Label", and actually not follow the Federal District Court Order for a Joint Exhibit List Number; R. 152 filed on 01/12/2005].

6 This is despite the fact that the Court of Appeals for the Fifth Circuit in Schweitzer v. Advanced Telemarketing **did not hold that the jury had favored Schweitzer, but over turned the Jury's Verdict and granted Advanced Telemarketing d/b/a Aegis Communications Group a new trial because the jury's verdict was against Aegis and the jury had awarded attorney's fees to Schweitzer.** On return with special instructions, Schweitzer lost her lawsuit and her case of age discrimination was dismissed; Please see Pet. APP II. Page, R-52].

On February 21st, 2006, Appellant had sent her Petition for Rehearing en banc and Motion to file Appellant Petition for Rehearing en banc Out of Time. The Court of Appeals had **Granted** Plaintiff's Motion to file her Petition for Rehearing en banc Out of Time and requested that Plaintiff provide statement of facts and references for Appellant Petition for Rehearing en banc that had already been sent to the Court of Appeals for the Fifth Circuit. However, the Court of Appeal failed to recognize that due to hurricane Katrina and hurricane Rita, Plaintiff did not receive each/all ROA Records. As such Plaintiff had to submit Appellant Brief, Appellant Reply Brief, and Appellant Petition for Rehearing en banc without having access to each/all original ROA Records. Indeed, the courtroom transcripts were made available in August of 2001. [R. 199, R. 200, R. 201, R. 202, R. 203]. In addition, the trial records and other ROA materials were received in New Orleans on September 5th, 2005, after the City of New Orleans was evacuated.[7] [R. 204; R. 205].

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7 [As a matter in fact, the office of the clerk of the court did not reopen until December 21st, 2005, which at that point the clerk of the office could not locate the boxes because the clerks of the office were overwhelmed with the move from Houston, TX to New Orleans, LA. Then, the court closed for holidays until January 9th, 2006 at that point the case was in court and Plaintiff could not obtain original ROA records. Plaintiff had made several requests to receive original ROA records; R. 189, Plaintiff's correspondence to the court reporter regarding Court Transcripts; R. 190, Plaintiff's First Amended Notice of Appeal filed on 04/23/2005. Furthermore, on March 13th, 2006, Appellant timely filed her Motion to Extend time to Amend Appellant's Petition for Rehearing en banc because one of the boxes of the records was sent to wrong address and Plaintiff had not received the ROA that were shipped on March 13th, 2006, in time to be able to Amend her Petition for Rehearing en banc in time. On March 24th, 2006, Plaintiff had received each/all ROA Records after the Court of Appeals deadline and after the Court of

REASONS FOR GRANTING THE WRIT, STATEMENTS OF GENUINE ISSUES OF MATERIAL FACTS, ARGUMENTS, AND AUTHORITIES

I. The Fifth Circuit Court of Appeals has decided important questions of federal law in conflict with relevant decisions of this court. The Supreme Court should settle these question(s):

Whether Aegis Policy and/or Practice of "Employment Application", "Background Checks", "Hiring Children under the age of 17 years old", "use of QA Conference Room which is secured with magnetic strip", "access to QA and Mystery Caller Systems from anywhere that a phone is available", " Sale of Local and International Child and Adult Porn through Aegis and/or Aegis Clients", **retaliating, exposing and/or causing to be exposed to partial nudity, and hostile work environment while hiring Registered Sex Offender(s) and Criminal(s) as Agent(s) and/or Supervisor(s) in violation of Parole and in violation of** Texas Criminal Code of Procedure, Article 42.12, Texas Code of Criminal Procedure, Article 21.14(a); Texas Penal Code Chapter 20.02, 20.04(a)(4), 20, 21, 22, 30.02, 43.26, Texas Code of Criminal Procedure § 7 – § 7.01 (a); § 7.01 (b); § 7.01 (c), Texas Code of Criminal Procedure § 7.02 – § 7.02 (a)(2); § 7.02 (a)(3); § 7.02 (b); Federal Telecommunication Commission Rules, Sec. 64.1200, USCA 18 § 1503 and 1623 **violates** Plaintiff's State and Federal

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Appeals Order on March 17th, 2006, that **denied** Appellant Motion to Amend Appellant's Petition with statement of the facts and references).

TCHRA and Title VII, as amended, U.S. Constitution. Fourth Amendment, and U.S. Constitution Fifth Amendment.

Whether the court of appeals decision can overturn basic and previously well understood requirements for the review of administrative law. This case is also worthy of the Court's review because the decision fundamentally changes the role of courts. The court has abounded the clear import of facts and existing laws and substitute the courts guess and favor for Defendant as the basis for exercise of the court's discretion and decision. If permitted to stand, the Fifth Circuit's decision will be a large step down a path that fundamentally undermines the proper role of judicial review in Title VII cases.

Furthermore, A Writ of Certiorari in this case is warranted because the Panel's decision is contrary to existing state and federal civil and criminal laws, in contrary to the United States Supreme Court's precedent, in conflict with TCHRA and Title VII as amended, in conflict with U.S. Const. Amendments IV and V, in conflict with Privacy Act, in conflict with the other Courts decisions, and of public importance. If the decision of the court is uncorrected, it will distort judicial review of Title VII Cases. Also, in this case Aegis "at will" policy is unconstitutional because it deprives Plaintiff of her basic rights.

In this case, the panel had issued two pages of opinions without any specific facts that Appellant's Case is frivolous as matter of law, lacking merit, should not set precedent, and should not be published. The panel's opinion lacks specific examination and reference to the issues of material facts and the law that Plaintiff had set forth in her Appellant brief pages 1-30; Appellant Reply Brief, Pages 1-

15; and Appellant Petition for Rehearing en banc, Pages 1-14. Furthermore, the panel's opinion lacks the functional and integral testing of substantial and conclusive evidence. Thus, the panel failed to address the key issues that appellant had presented to the court. It is undisputed that Plaintiff had presented evidences and arguments as to her claims such as **Plaintiff's quid pro quo sexual harassment case.**[8] Thus, the panel's decision that this case is frivolous is substantially disproved because the court's contradictory language does not support the evidences.

Furthermore, in the instant case, Defendant had requested the district court to grant expert discovery and additional discovery after the district court had granted Defendant Partial Summary Judgment on Plaintiff's claims. **The law is clear that summary judgment is only warranted when there are no genuine issues of material**

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[8] [Please see the district court record # 110, Page 8, the district court Order and Opinion as to quid pro quo sexual harassment in this case; and the district court's opinion as to retaliation in this case, # 110, Page 11; TCHRA; and "Title VII"; in addition, if the panel had found that Plaintiff had to be more specific about the references to the record, then the court should had allowed Plaintiff to access to Appendix for R.166, Plaintiff's Proposed Amended Pretrial Order's Exhibit List that were ought to be in New Orleans. The panel should have considered that due to hurricane Katrina and Rita, Plaintiff did not have access to each/all original ROA; in addition, the panel should have considered the fact that the city of New Orleans was evacuated for three to four months. If the panel could not find each/all original ROA that supports Appellant's conclusive and substantial claims, then the panel was obligated to reverse and remand its decision and allow to Plaintiff to receive ROA records and present Plaintiff's statements of case and references as the court had requested].

facts.[9] Thus, if Defendant needed more discoveries, then there were genuine issues of material facts in question. **Therefore, the panel's decision is inconsistent with standard of review that the Supreme Court had advocated.**

Moreover, **the panel stated** that Ms. Pourgholam appealed her case because **a jury's verdict unfavorable to Plaintiff. This statement of the panel is incorrect because the reason for Ms. Pourgholam appeal was** whether the district court had erred **when** accepted a **"misled" jury's verdict** against Ms. Pourgholam. The questions that Ms. Pourgholam had presented to the Court of Appeals for the Fifth Circuit was to determine whether Defendant can mislead the federal district court and the federal grand jury, to obstruct justice, to commit perjury, to withhold evidences, to tamper with evidences, to destroy evidences, to defame Plaintiff's character publicly before the court and the jury, and cause Plaintiff's case to be dismissed.[10]

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9 [Cleotex Corp. 477 U.S. at 327 106 S. Ct at 2555; Cleotex Corp. v. Cartrett., U.S. 317, 322, 106 S. Ct. 2548, 2552 (986); Cleotex Corp., 477 U.S. at 322-25, 106 S. Ct. at 2552-54].

10 [USCA 18 § 1503 and 1623, Relevant Portions of Texas code of Criminal Procedure, Article 21.14(a) – Perjury and aggravated Perjury before a grand jury is unlawful, obstruct justice, to commit perjury; Texas Code of Criminal Procedure Article 42.2 Section 13B,' Texas Penal Code Chapter 7, 20, 21 and 22; Federal Telecommunications Commission Rule 64.1200, other State and Federal laws; TCHRA and "Tile VII" as amended; Relevant Portions of Texas Penal Code 20.02 and 20.02 – Kidnapping and unlawful restraint is unlawful; Relevant Portions of Texas Penal Code 20.04(a)(4) – Aggravated kidnapping with the intent to violate the victim sexually is unlawful].

Thus, the panel had predetermined Plaintiff's case without applying functional and substantial integration test of conclusive evidence. For instance, based on Defendant's employee application and background check, Defendant knew that Darryl Steen was a Registered Sex Offender with two Conviction Felonies of Sexual assaults. One involving his own daughter by placing his penis in his daughter's mouth, F80-14083-IL while Darryl Steen was on parole he had sodomized his stepson, F86-70092-LM. [Appellant's record excerpts in support of Appellant's Brief, Exhibit 11, Pages SP-479 and SP-480]. However, Defendant had hired Darryl Steen a Registered Sex Offender knowing that Defendant had also hired children sixteen (16) years old and the fact that Defendant's EEO policy stated **that members of management** are to treat **employees like their daughter, son, and spouse.**[11]

Furthermore, Defendant had filed Motion in Limine and **Defendant knew** that **Darryl Steen was in violation of his parole while Darryl Steen worked for Defendant** because **Darryl Steen's Parole conditions requires "Steen" not to be in/on/about or participate in any program that included children 17 years old** or younger and "Steen" was not to **supervise** Children 17 years or younger.[12] However,

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[11] [District court record #45, Defendant's Appendix in support of Defendant's First and Second Motion for Summary Judgment, page 566; Plaintiff's Trial Exhibit 12, Page SP-89; Aegis Hiring Policy; Defendant's Trial Exhibit #101,Aegis Employment Application; Appellant USCA Record Excerpts, Tab 5, Page SP-77, Defendant's Background Check Result Policy Requirements; Aegis EEO Policy, Page 6-7 of this Petition; Texas Code of Criminal Procedure, Article 42.12, Section 13B, Texas Penal Code Chapter 7, 20, 21 and 22].

[12] [Plaintiff's direct supervisor, Darryl Steen's Terms and Conditions of Parole for two Sexual Assaults Conviction Felonies of First

Defendant had lied to the federal grand jury that Darryl Steen did not do anything inappropriate and that Darryl Steen was honest.[13]

In addition, the Panel had erred to adopt Appellee's Brief without considering that Defendant's Appellee's Brief was almost identical to Defendant's First Motion and Second Motion for Summary Judgment(s). As such Defendant's Appellee Brief was inaccurate because it did not include each/all conclusive and substantial evidences that had been obtained after the district court had granted partial summary judgment to Defendant. Thus, Defendant had failed to respond to Plaintiff's Appellant's Brief(s).

II. PETITIONER ISSUES ARE NOT MOOT; THE PANEL WAS OBLIGATED TO REVERSE AND REMAND THIS CASE

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and Second Degree Aggravated Sexual Assaults for placing his penis in his daughter's mouth and sodomizing his step-son, Appellant Record Excerpts in Support of Appellant's Brief, Exhibit 11, Pages SP-238, SP-239, and SP-240; R. the district court docket #45 and #99, Defendant First and Second Motion for Summary Judgment Page 566, Aegis hiring policy for children under the age of 17 years old; R. #153, Defendant Motion in Limine, R. #165, Defendant's Reply in Support of Defendant's Motion in Limine; Plaintiff's Trial Exhibit # 12, ACG-00618, SP—89, Aegis EEO to treat employees like your son, daughter, spouse, etc].

13 [TR 500 lines 20, 21, 22, and 23; TR 499, lines 13, 14, 15; USCA 18 § 1503 and 1623; Relevant Portions of Texas Code of Criminal Procedure, Article 21.14(a) – Perjury and aggravated Perjury before a grand jury is unlawful; Defendant obstructed justice and committed perjury; Improper Argument – J- § 4 and § 5; Texas Code of Criminal Procedure, Article 42.12, Section 13B, Texas Penal Code Chapter 7, 20, 21 and 22].

It is central to due process that the courts and agencies must consider relevant evidences.[14] The lead case interpreting the APA, requires that reviewing courts consider the *entire record* when determine whether the courts findings of fact are based on substantial evidence, "the court may not scour the record to find its own basis for decision." APA § 706 (2) (A), 5 U.S.C. § 706 (2)(A)(2000), the decisions must be reasoned and not arbitrary or capricious. The court does not do its duty when it merely decides upon a poor record; the panel should not dismiss this case on the false basis that there is no record, and the reviewing panel cannot supply a basis for a decision without specific references to the record.[15]

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[14] [See United States Constitution, Amendment IV and V; *Saunders v. Shaw*, 244 U.S. 317 (1917); Administrative Procedure Act ("APA"), Section 706, 5 U.S.C. § 706 (2000), APA § 554(c), 5 U.S.C. § 554 (c) (2000); the court shall give all interested parties opportunity for – (1) the submission and consideration of facts; *Universal Camera Corp. v. NLRB*, 340 U.S. 474 (1951)].

[15] [*Isbrandtsen Co. v. United States*, 96 F. Supp. 883, 892, (S.D.N.Y. 1951); Since the matters of this case involve violations of State and Federal TCHRA and Title VII, as amended, human rights, Constitutional Rights, State and Federal laws, FCC and FTC Rules and Regulations, Child and Adult Porn, threats with gun and assaults, pregnant employees that had forced abortions or were sent to Psychiatric Centers while working for Aegis and Aegis client(s), false advertisement, Obstruction of Justice and Perjury, and the fact that the relief is available; it would be appropriate for this court to grant Ms. Pourgholam Petition for A Writ of Certiorari so that the case can be totally reviewed with substantial and conclusive evidences; [Petition for A Writ of Certiorari, Pages1-30; Appellant Brief, Pages 1-30; Appellant Reply Brief, Pages 1-15; and Appellant's Petition for Rehearing en banc, Pages 1-14; *Walter Fuller Aircraft v. Rep of Philippines*, 965 F.2d 1375, 1380 (5th Cir. 1992); *Moses H. Cone Mem. Hosp v. Mercury Constr. Corp.*, 460 U.S. 1 (1983)].

III. WILLISTON BASIN AND SCHWEITZER CASES COMPEL A REVERSE AND REMAND

Williston basin Interstate pipeline Co. v. FERC, 165 F. 3d 54 (D.C. Cir. 1999) holds that where there is an exceptional situational or policy change the change must be applied to existing cases. The essence of Williston is that a remand is required where the court changes the basis for its decision because the decision-making cannot be arbitrary.[16]

The United States Supreme Court held in *Moses H. Cone Mem. Hosp v. Mercury Constr. Corp.*, 460 U.S. 1 (1983), that a case is immediately appealable as a final decision when the order terminates the case from federal district court. *Id*, at 10. Similarly, the Fifth Circuit has recognized that a final decision is appealable. As explained, this case is appealable because each/all interlocutory orders against Plaintiff in the district court and final decision(s) of the district court had terminated this case. The order appealed from conclusively determines the disputed question. Furthermore, Ms. Pourgholam appeal "resolves an important issue completely separate from the merits of the action." *Coopers*, 437 U.S. 468. "An order that amounts to a refusal

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16 [*Williston basin Interstate pipeline Co. v. FERC*, 165 f. 3d 54 (D.C. Cir. 1999); The Court of Appeals for the Fifth Circuit in Schweitzer v. Advanced Telemarketing did not hold that the jury had favored Schweitzer, but over turned the Jury's Verdict and granted Advanced Telemarketing d/b/a Aegis Communications Group a new trial because the jury's verdict was against Aegis and the jury had awarded attorney's fees to Schweitzer. On return with special instructions, Schweitzer lost her lawsuit and her case of age discrimination was dismissed].

to adjudicate the merits plainly presents an important issue separate from the merits." *Moses H. Cone,* 460 U.S. at 12. In the present case the review of the orders of the district court had been roadblock to final judgment. *Moses H. Cone,* 460 U.S. at 12 n. 13. The court's orders present an important issue completely separate from the merits of Plaintiff's claims. In addition, denial of immediate review would render impossible any review whatsoever.[17]

It is also important to note that in this case opposing counsel had made improper and inflammatory arguments in front of the jury in bad faith. This court has the power to grant a review of this case based on its appraisal of the fairness of the trial and reliability of the jury's verdict.[18]

Moreover, the district court judge erred in dismissing each/all Plaintiff's TCHRA's actions after April 22, 2001 and Title VII actions after December 23rd, 2000 for discriminatory suspension based on national origin, DJ Williams co-worker harassment, discriminatory

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17 [*Hines v. Artois,* 513 F.2d 726, 730 (5th Cir. 1976); *United States v. Garner,* 749 F.2d 281, 288 n.8 (5th Cir. 1985); *Cooper & Lybrand v. Livesay,* 437 U.S. 463, 468 (1978); *Firestone Tire& Rubber Co. v. Risjord,* 449 U.S. 368, 376 (1981); *Firestone,* 449 U.S. at 376; *Johnson v. Ford Motor Co.,* 988 F.2d 573, 582 (5th Cir. 1993)].

18 [Texas Criminal Code of Procedure, Article, 42.12, Texas Penal Code Chapter, 7, 20, 21, 22; prejudicial and incurable argument – J - § 4, § 5, and § 6; USCA 18 § 1503 and 1623; Relevant Portions of Texas Code of Criminal Procedure, Article 21.14(a) – Perjury and aggravated Perjury before a grand jury is unlawful; *Gray v. Bicknell.* 86 F.3d 1472, 1480, (8th Cir. 1996); *Smith v. Transworld Drilling Co.,* 773 F.2d 610, 612-613 (5th Cir. 1985); *Ruvalcaba v. City of Los Angeles.* 64 F.3d 1323, 1328, (9th Cir. 1996)].

suspension based on race, harassment based on national origin, harassment based on race, discriminatory discharge based on race, and failure to promote based on national origin.[19] Plaintiff will set forth that Plaintiff had received numerous Racist, Profane, and Sexually explicit phone calls from April to September of 2001; based on Lisa Lewis's email, Defendant knew that as of April, May, June, and July of 2001, Plaintiff reported that Plaintiff was receiving numerous racist, profane, and sexually explicit phone calls from Mystery Caller/Customer called "Trina Bitch", Rev John Stillwell's calling cards named "suck my dick" and "fuck you", and numerous other racist and profane calls.[20] In addition, according to Lisa Lewis's email EACH/ALL monitored calls forms had to be signed by Plaintiff; despite the fact that Plaintiff had requested a copy of video and audio

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[19] [Please see Plaintiff's USCA Record Excerpts, Tab 4 to Tab 17; also see district court's Docket Record #56, #166, #106, 107]

[20] [Plaintiff's USCA Record Experts, Tab 8, Page SP-56, Lisa Lewis's email on 07/06/2001 to Darryl Steen, David Walker, Mary Mullen, and Todd Baker, Lisa Lewis's hand written note, Tab 8, Page SP-53, Call from Trina Bitch, Tab 8, Page SP-54, Lisa Lewis's Handwritten Notes that Plaintiff had reported unlawful acts; Defendant's Trial Record, Exhibit 100, Handwritten Notes of Lisa Lewis, Pages ACG-00213, ACG-00215 on 07/06/2001, ACG226-00229 on 07/09/2001; Plaintiff's Trial Record, Exhibit #34, Call from Trina Bitch on 07/06/2001-ACG-00218 Call from Trina Bitch on 07/02/2001-ACG-0422, Call from customer with profane and abusive comments on 07/02/2001-ACG-00314, and Call from Rev. John Stillwell with calling card "Suck my dick" and "Fuck You" phone number 510-632-6733; Defendant's Trial Record, Exhibit #18, Plaintiff's Termination Review, Steen's Handwritten Notes on the bottom of the page, Plaintiff reported harassment, also Johnnie Reagler failed to report the harassment to authorities and the two did not use proper Termination Form, PAF Form, that requires Center Director's signature before termination].

of each/all profane, sexually explicit, and racist phone calls that Plaintiff had received while Plaintiff was working for Defendant and under direct supervision of Darryl Steen (A Registered Sex Offender that Defendant had hired in violation of his Parole) as well as after Plaintiff had filed two Motions to Compel Defendant to Produce discovery; Defendant never produced the original audio and video tapes of these unlawful calls.[21] Indeed, Defendant also could not find it IRS tax records for revenues and profits that Defendant had made as a result of sales of Local and International child and Adult Porn; in addition, Defendant had entered into defense agreement with Plaintiff's attorney to not transcribe the call for 09/26/2001 and 06/18/2001 that was played in the open court.[22]

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21 [Please see Appellant's USCA Record Excerpts, Tab 8, Page SP 56; district court record # 47 on 10/15/2002 and R. #89 on 02/03/2004 Plaintiff's Motion to Compel Defendant to respond to Plaintiff's First Se of Interrogatories and First Request for Production of Documents; Distric Court Record #149. dated January 10th, Page 2, Top paragraph, Defendan had informed the court that Defendant could not find the records Plaintiff's USCA Record Excerpts, Page SP-728, SP-727, Courtroon transcript - Plaintiff's objection because Aegis had produced tampere audio tape without the video portion of 09/26/2001 call and Aegis did no produce the audio and video tape of Patricia Edwards; R. 166, Defendan had not produced each/all racist, obscene, sexually explicit, and profan calls that Plaintiff had received while Plaintiff was working for aegis an under direct Supervision of Darryl Steen. Based on Ms. Patricia Edward Request, Plaintiff had credited Ms. Edward's account for charges of rude destructive, and unwanted child and adult porn. Based on Ms. Edward' request, Plaintiff had also blocked access to unwanted porn access However, Darryl Steen and Defendant had denied this credit; Relevan Portions of Texas Penal Code 43.26 – Possession or Promotion of Chil Pornography is unlawful; Texas Criminal Code of Procedure chapter 7 20,21, and 22].

22 [Please see Appellant's USCA Record Excerpts, Tab 11,Page SP-242.and SP-243, Sale of Local and International Child and Adul

Furthermore, Defendant's attorney had entered into defense agreement with Plaintiff's attorney to mislabel and produce the calls that Plaintiff as a Supervisor had completed on Plaintiff's agents and the excellent ratings that Plaintiff had received for Plaintiff's coach and counseling skills from her agents, in order to confuse the court and the jury about the material facts of this case. [Defendant's Trial Record Exhibits #38].

In addition, according to Lisa Lewis's email, Defendant had to produce each/all calls from April 2001 to July 2001.[23] Moreover, according to Lisa Lewis's email, Darryl Steen had to present monitors to Plaintiff and Plaintiff had to sign the

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Porn, Tab 14, Pages SP-728 and SP-727, Plaintiff's Objection to the foundation and form of tampered audio tape for 09/26/2001 that Defendant produced to the jury; Texas Penal Code 43.26 – Possession or Promotion of Child Pornography is unlawful; Texas Criminal Code of Procedure, article 42.12; Texas Penal Code Chapter 7, 20, 21, and 22; – J - § 4, § 5, and § 6; USCA 18 § 1503 and 1623; Relevant Portions of Texas Code of Criminal Procedure, Article 21.14(a) – Perjury and aggravated Perjury before a grand jury is unlawful].

[23] [In addition, Defendant still failed to investigate; during discovery refused to produce the audio and video tapes of these calls, took no action against Darryl Steen, allowed Johnnie Reagler and Darryl Steen to use a Form other then PAF Form to terminate Plaintiff to avoid following Defendant's EEO Policy, to allow Johnnie Reagler and Ella Dickerson to sign on Plaintiff's termination without any investigation when Darryl Steen's Handwritten Note at the bottom of the Plaintiff's Termination Review had recorded Plaintiff reports "Harassment"; in order to avoid legal consequences of unlawful actions of Defendant that also had caused Plaintiff to suffer severe intentional emotional distress because from April of 2001 to September of 2001 Plaintiff had received racist, sexually explicit, profane, and absence phone calls while Plaintiff was working for Aegis and under Darryl Steen's Direct Supervision].

monitor forms before these calls could affect Plaintiff's performance negatively. [Appellant USCA Record Excerpts, Tab 8, Page SP-56]. In this case, Defendant did not produce signed monitor forms for 06/10/2001 and 09/26/2001 tampered audiotapes. [ROA, USCA5, Pages 960-981].

Then, Defendant had lied to the federal grand jury that Darryl Steen was honest and had nothing to gain while Defendant had hired Darryl Steen in violation of his Parole and "Steen's" Parole should have been revoked.[24] As such, Defendant's assertion of assuring Quality service is pretextual and unequivocally false.

Plaintiff has also set forth that on or about March 2001; Plaintiff was identified as a witness in Defendant's EEO investigation of sexual harassment in AT&T CS&S and CPP campaign. Plaintiff had admitted that she was sexually harassed because statements about sex and jokes about **sex** and **men's testicals** were told in the presence of Plaintiff.[25] Plaintiff was threatened and Plaintiff was told that she is not

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[24] [Please see Defendant's closing arguments, Page 499, lines 15, 16, 17; R. #45 and #99, Page 566, Paragraph D; Aegis had hired children 17 years of age and younger; Appellant's USCA Record Excerpts, Tab 11, Pages SP-242 and SP-243; Tab 11, Pages SP-71, SP-72, and SP-475, Darryl Steen had exposed Plaintiff to Partial nudity because he had chosen DJ to team lead out of dress code in Partially nude outfit; Texas Code of Criminal Procedure, Article, 7; Texas Penal Code Chapter 7, 21, 22].

[25] [Plaintiff's Trial Exhibit, #30 and #31; R. #56, Plaintiff's Opposition to Defendant's First Motion for Summary Judgment, Exhibit 4, Pages SP-40 and SP-41; R. #45 and #99, Page 464 and 465, ACG 00201 and ACG-00202, Appendix in Support of Defendant's First and Second Motions for Summary Judgments].

to talk to anyone beside Lisa Lewis.[26] As such, Plaintiff was discriminated against in violation of TCHRA and Title VII when Plaintiff was sent home without pay because Plaintiff's shoe did not have a strap in the back[27] In addition, between April 22, 2001 until September 27th, 2001, in several different occasions, including but not limited to June 10th, 2001 incident, Darryl Steen had allowed, DJ a co-worker, to team lead in partially nude out fit and out of dress code without sending DJ home.[28] In addition, Darryl Steen in violation of Defendant and AT&T's ID Policy when "Steen" had shared his Mystery Caller Systems and Quality Assurance Systems with DJ. Aegis took no action against

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[26] [Please see the district court's record #45, #99, Page 496, ACG-00192, Defendant's Appendix in Support of Defendant First and Second Motion(s) for Summary Judgment].

[27] [Please see the district court record #56, Exhibit, Page SP-37 and SP-38, Aegis Security Report about $500.00 Plaintiff's Stolen Money; Page SP-38, Aegis Security Report that one of Aegis employees had walked up to Plaintiff's face and told Plaintiff "Fuck You" twice; R. #45 and #99, Page 469; furthermore, Anita Boston trainer for AT&T had come to work out of dress code several times and she was not sent home.[27] However, $500.00 was stolen from Plaintiff in AT&T CS&S and CPP training class, then one of the students had left the training class and another Aegis employee had walked up to Plaintiff's face and told Plaintiff "Fuck You" twice].

[28] [Please see Plaintiff's USCA Record Experts, Tab 8, Page SP-56, Lisa Lewis's email on 07/06/2001 to Darryl Steen, David Walker, Mary Mullen, and Todd Baker; Plaintiff's USCA Record Excerpts Tab 11,Pages SP-71 and SP-72, Plaintiff's hand written note to Todd Baker and Darryl Steen; Defendant's Trial Exhibit #13, Plaintiff's Memorandum to Todd Baker and Darryl Steen on 06/10/2001; Lisa Lewis's hand written note Defendant's Trial Record, Exhibit 100, Handwritten Notes of Lisa Lewis, Pages ACG-00213, ACG-00215 on 07/06/2001, ACG226-00229 on 07/09/2001].

Darryl Steen and he didn't loose a day of pay; as such, Plaintiff was discriminated against, wrongfully terminated, and constructively discharged in violation of Title VII.[29]

Similarly, in April of 2001, Plaintiff had applied for Help Desk Position and Team Development Leader Position. Again, even though Plaintiff had the highest quality assurance score on the team and Defendant's own record shows that Plaintiff was excellent in processing adjustments, Plaintiff was denied promotion to help desk and Team Development Leader position(s) because Defendant retaliated against Plaintiff for the fact that Plaintiff would assure customer service and satisfaction by issuing credit to customer's that were charged for rude and unwanted Child and Adult Porn that were popping up on their computer while customer's were surfing on the internet[30].

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29 [Please see Plaintiff's USCA Record Excerpts, Tab 11, page SP-72; Tab 8, Page SP-56, Lisa Lewis email on 07/06/2001, etc; TCHRA, Title VII].

30 [Please see Plaintiff's Trial Exhibit #57, Handwritten Notes of Lisa Lewis that Plaintiff is very good at issuing adjustments; Plaintiff's USCA Record Excerpts, Tab 11, Page SP-50, as of 06/17/2001, Plaintiff had the highest Quality Score, Plaintiff's USCA Record Excerpts Tab 11, Pages SP-242 and SP-243, Defendant retaliated against Plaintiff for the fact that Plaintiff had issued credit to customer's that were charged for rude and unwanted Child and Adult Porn; Plaintiff's USCA Record Excerpts, Tab 10, Page SP-15, Plaintiff received letter of recommendation as a Supervisor from her Operation Manager Cyndi Kruger, SP-197, Frankie Reese had demoted Plaintiff on 07/11/2000; SP-448 Frankie Reese had promoted Darryl Steen to Plaintiff's Supervisor Position; Plaintiff's USCA Record Excerpts, Tab 11, Pages SP-238, SP-239, and SP-240, Darryl Steen's Terms and condition of his Registered Sex Offender forbids Darryl Steen to Supervise or be on/in/about children 17 years or younger; R. #45 and #99, Page 566, Paragraph D, Defendant employee handbook that Aegis does hire children 17 years or younger;

Accordingly, Plaintiff meets her burden of *prima facie case and Defendant's pretextual reasons* for discriminating against Plaintiff in violation of Title VII because in the instant case Plaintiff had established prima facie case and presented evidences that Defendant's reasons were a pretext for unlawful discrimination. Plaintiff had established that (a) Plaintiff was member of protected class(es); (b) Plaintiff was clearly qualified for her position; (c) Plaintiff was wrongfully and/or constructively discharged, demoted, and denied promotion; (d) after Darryl Steen had Terminated Plaintiff, Defendant had never disclosed and failed to submit in Defendant's First and Second Motions for Summary Judgment and at the trial of this case that the person that Defendant had hired to replace Ms. Pourgholam was an Iranian female. (Defendant acted in a manner to indicate that the decision(s) against Ms. Pourgholam was based on her national origin).

Furthermore, Defendant obstructed justice and defamed Plaintiff's character because Defendant took advantage of Defendant's Motion in Limine **to eliminate** evidences from the federal grand jury.[31] Thus, Plaintiff had

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R. #45 and #99, Pages 556, 557, and 558; specifically page 558 on the top paragraph is showing that Plaintiff has remarkable coach, counseling, and development skills; Please see R. #45 and #99, Page 559; on the same day 02/27/2000, Defendant had presented two Supervisor Performance Reviews of Plaintiff by Frankie Reese, One has an overall score of Meeting Expectation and on the other Plaintiff had Exceeding Expectation; Plaintiff's USCA Record Excerpts, Tab 10, SP-15, Plaintiff received letter of recommendation as a supervisor from her Operation manager Cyndi Kruger; Defendant's Trial Exhibit #38, after monitoring, Plaintiff's agents had highly rated Plaintiff's coaching].

[31] [R. #171, Order on 03/18/2005, Second Page, Paragraph (1), (2), (3), (4), and (5); Benners v. Blanks Color Imaging, Inc., S.W.3d-, 2004

established that: (a) Defendant acted intentionally or recklessly toward Plaintiff; (b) Defendant's conduct was extreme and outrageous; (c) Defendant's actions caused Plaintiff severe emotional distress; (d) the emotional distress suffered by Plaintiff was severe. **Therefore, Plaintiff meets her burden of to show *severe Intentional Infliction of Emotional Distress.***[32]

Daubert, provides the analytical framework for

WL 937902, at * __ (Tex. App.-Dallas May 2, 2004) (no pet.h.).

[32] [In addition, in Defendant's Appellee's Brief, Defendant asserts, and/or applies, and/or confirms Plaintiff's claim that Defendant's direct and/or indirect associated hospitals; doctors, healthcare workers, and expert witness had misdiagnosed Plaintiff. [Appellee's Brief, Page 39; 52] As such, Defendant's conduct is sanctionable for publicly defaming Plaintiff's character in the presence of the court and in the presence of the jury. Defendant's defenses were false; Defendant had argued that Plaintiff did not have marks on her neck when she went to emergency room. [Appellee's Brief Page 44]. Plaintiff was prescribed medication for rash (marks) that were on Plaintiff's neck during this same visit. [Defendant's Trial Exhibit #113, Emergency Room visit on 02/13/02, doctor's instruction and medications prescribed, specifically shows medication for rash (marks on Plaintiff's neck); Similarly, **on Sunday 06/03/2001 at 8:30 pm at night,** Darryl Steen had signed off Plaintiff and took Plaintiff to Secured Quality Room for One-On-One session in an area that no one else was there and never return Plaintiff back to the phones. [Appellant's USCA Record Excerpts Tab 16, Pages SP-249, SP-241, SP-244, Particularly Page SP-244; Tab 17, Pages SP-474, SP-514]. On 06/05/2001, Dr. Michael Tran, Defendant's in network doctor had checked Plaintiff and misrecorded the date of the visit as "06/05/2007" and misreported the name of the company as "SBC", and misdiagnosed Plaintiff as psychosomatic. [Appellant's USCA Record Excerpts Tab 17, Page SP-514]. However, Dr. Tran in his deposition had said that the Plaintiff's painful vaginal bleeding on 07/31/2001 was due to prolonged antibiotics. [Plaintiff's Appendix in Support of R. #166]. As such Defendant's argument that Plaintiff was paranoid with psychotic features is untrue. [Appellee Brief, Page 43].

determine whether expert testimony is reliable, relevant, and admissible under rule 701, 702, 703, 704, 705, and 706 of the Federal Rules of Evidence. Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 592-593, 579, 113 s. Ct. 2786, 125 L. Ed. 2d 469 (1993). The Court erred in not striking and excluding Defendant's Expert Witness after Defendant's attorney Alisa Pittman on Direct Examination of Dr./Mr. Kay Hale lied to the jury that Dr./Mr. Kay Hale had never met and never had any relationship with Defendant's Law Firm.[33] If Defendant's Expert Witness would lie and mislead the jury about this known fact than the federal district court and the federal grand jury could not rely on him to give an unbiased evaluation of Ms. Pourgholam and to help the trier of the fact(s) to understand the evidences in this case. As such, the Court cannot ignore Ms. Pourgholam stated basis.[34]

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[33] [Court room transcript Page 398, lines 18-20; TR Page 419, lines 7-10 and 20-21. district court's docket record # 58 in November 8th, 2002, Defendant's designation of Dr./Mr./Kay Hale; TR Page 69, line 11, Defendant's attorney's opening statement; TR 502, lines 6-9, Defendant's attorney's closing statement which both are quoting Mr./Dr. Kay Hale's biased diagnoses to mislead the federal court and the federal grand jury; Whether an expert's testimony is reliable is a fact-specific inquiry; Skidmore v. Precision Printing and Pkg., Inc., 188 F. 3d 606, 618 (5th Cir. 1999); Kumbo Tires Co. v. Carmichael., 526 U.S. 137, 147, 152, 0119 S. Ct. 1167, 143 L. Ed. 2d. 238 (1999); Bocanegra v. Vicmar Serv., Inc., 320 F. 3d 581, 584 (5th Cir. 2003); Moore v. Ashland chem., Inc., 151 F. 3d.269, 279 (5th Cir. 1998); Pipiton v. Biomatrix., Inc., 288 F. 3d, 243 (5th Cir. 2002);Dr./Mr. Kay Hale's] hypothesis, theory, and report was invalid and the district court erred in not striking and excluding Dr./Mr. Kay Hale's expert testimony for lack of sufficient grounding because his testimony did not offer accurate and significant statistical link between discrimination, hostile work environment, and severe intentional affliction of emotional distress on Ms. Pourgholam; Defendant's Trial Record Exhibit # 104, Mr./Dr./Kay Hale's report was invalid].

[34] *SEC v. Chenery Corp.*, 318 U.S. 80 (1943); *Burlington Truck lines v. United States*, 371 U.S. 156 (1962); *Motor Vechicle Mfrs. Assn v.*

CONCLUSION AND PRAYER

WHEREFORE, this petition for the writ of certiorari should be granted.

Respectfully Submitted,

/s/ Shahla Pourgholam
SHAHLA POURGHOLAM
Pro Se, Petitioner
P O Box 824311
Dallas, TX 75382

May 2006

State Farm Mut. Auto. Ins. Co., 463 U.S. 29 (1983); [the Panel's decision is contrary to existing laws, in contrary to the United States Supreme Court's precedent, in conflict with the decision of the other courts as well as Fifth circuit court's decisions, and is substantially disproved by the record; a most basic tenet of administrative law is that courts speak through their decisions; the ambiguity in the order requires remand, and the courts should not presume. When the court's decision is in error, it is the duty of the court to review, reverse, and remand so that the court can correct the errors, and not to decide it. In this case, there were reports of assaults at Aegis Irving, TX facility, there had been Officer Mark Talley's misconduct in investigating Aegis and "Steen"; Officer Mark Talley's two court of indecency with a Child; Irving Police Officer's Miller use of Excessive force against a Hispanic man during a traffic stop, David Walker 's Registered Sex Offender information; and Aegis failure to investigate and take any action against "Steen" after receiving Plaintiff's EEOC complaint and while Aegis knew that had hired Steen in violation of his Parole; Please see Appendix I and II in support of Petition for a Writ of Certiorari; Pet. App. II; K, L, M, N, O, P, Q, R, S, T, U, V].

Supreme Court, U.S.
FILED
051474 MAY 8 - 2006
OFFICE OF THE CLERK

No. _____

In The

Supreme Court of the United States

SHAHLA POURGHOLAM,

Petitioner,

v.

ADVANCED TELEMARKETING CORP., d/b/a AEGIS COMMUNICATIONS GROUP INC,

Respondent.

Appendix One of Two (I of II) in Support of Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

SHAHLA POURGHOLAM
PRO SE PETITIONER
P O BOX 824311
DALLAS, TX 75382
shahlap@msn.com

May 2006

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IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-10502

SHAHLA POURGHOLAM,

Plaintiff – Appellant

V.

ADVANCED TELEMARKETING CORPORATION, doing business as Aegis Communications Group Inc.,

Defendant – Appellee

Appeals from the United States District Court
for the Northern District of Texas, Dallas

ORDER:

IT IS ORDERED that appellant's motion for an extension of 20-30 days to file sufficient petition for rehearing en banc is DENIED.

IT IS FURTHER ORDERED that Appellant's motion for leave to amend Appellant's petition for rehearing en banc is DENIED.

IT IS FURTHER ORDERED that Appellant's motion for leave to amend Appellant's petition for rehearing en banc is DENIED.

IT IS FURTHER ORDERED that Appellant's petition for rehearing en banc filed March 1, 2006 is stricken for non-compliance with Local Rule 35.

IT IS FURTHER ORDERED that henceforth the clerk of Court shall not accept for filing any pleadings for documents submitted by or on behalf of appellant.

Dated: March 17th, 2006.

/s/ Jacques Wiener

JACUES L. WIENER, Jr.
UNITED STATES CIRCUIT JUDGE

Mot-21

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-10502

SHAHLA POURGHOLAM,

Plaintiff – Appellant

V.

ADVANCED TELEMARKETING CORPORATION, doing business as Aegis Communications Group Inc.,

Defendant – Appellee

Appeals from the United States District Court
for the Northern District of Texas, Dallas

O R D E R:

IT IS ORDERED that Appellant's motion to file petition for panel rehearing en banc out of time is GRANTED.

Dated: 03/01/2006. /s/ Jacques Wiener

JACUES L. WIENER, Jr.
UNITED STATES CIRCUIT JUDGE

Mot-21

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-10502

SHAHLA POURGHOLAM,

Plaintiff – Appellant

V.

ADVANCED TELEMARKETING CORPORATION, doing business as Aegis Communications Group Inc.,

Defendant – Appellee

Appeals from the United States District Court
for the Northern District of Texas, Dallas
(3: 01-CV-2764-H)

Before KING, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:

Plaintiff-Appellant Shahla Pourgholam, proceeding pro se, appeals myriad rulings of the district court, including summary judgment dismissals of some of claims and dismissal of others based on a jury verdict unfavorable to Pourgholam. The plethora of claims advanced by

Pourgholam against Defendant-Appellee Advanced Telemarketing Corporation ("ATC") may be broadly categorized as workplace or employment discrimination involving, variously, harassment, hostile work environment, supervisor harassment complaints, retaliation, and on and on, implicating national origin, race and sex. We have patiently waded through Pourgholam's multifarious allegations, conclusion statements, and largely contradicted assertions; and we have carefully reviewed the many rulings of the district court, whether evidentiary, summary judgment, or the like. In the end, we are convinced that the district court committed no reversible error in any of its dispositions of the issues presented.

Moreover, our combing of the record on appeal and our review of the applicable law, as presented in the brief of ATC on appeal and on the basis of our own independent research, convinces us beyond peradventure that – separate and apart from her filing and prosecution of this action in the district court- Pourgholam's appeal to this court is wholly lacking in merit and thus is frivolous as a matter of law. But for Pourgholam's pro se status, we might well have addressed the issue of sanctions for a frivolous appeal on our own motion. Pourgholam is cautioned that any further prolongation of this contumacious litigation could expose her to sanctions.

APPEAL DISMISSED. Dated: February 7th, 2006.

Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

TEL. 504-310-7700
CHARLES R. FULBRUGE III 600 CAMPT STREET
CLERK NEW ORLEANS, LA 70130

January 11, 2006

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 05-10502 Pourgholam V. Adv Telemarketing
USDC No. 03:01-CV-2764-H

The court had granted the motion of appellant for leave to file corrected reply brief in this case.

Sincerely,

CHARLES R. FULBURCE III, Clerk

/s/ Mary Stewart
BY: _____
Mary Stewart, Deputy Clerk
504-310-7694

IN THE UNITED STATES DISTRUCT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SHAHLA POURGHOLAM	*	
	*	
Plaintiff	*	
		Civil No. 3:01-CV 2764
	*	
V.	*	
	*	
ADVANCED TELEMARKETING CORP., d/b/a AEGIS COMMUNICATIONS GROUP, INC.	*	

JUDGMENT

This case was tried before the court and a jury March 21, 22, and 23, 2005. On March 24, 2005, the jury returned its verdict pursuant to which this judgment is entered.

IT IS ORDERED, ADJUDGED AND DECREED by the court that Plaintiff Shahla Pourgholam take nothing by her suit against Defendant advanced Telemarketing corp. d/b/a Aegis Communications Group, Inc., and that this suit be, and it is hereby, **DISMISSED** on the merits at Plaintiff's cost.

SIGNED this 24th day of March, 2005.

/s/ Barefoot Sanders

BARFOOT SANDERS, SENIOR JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

NORTHERN DISTRICT OF TEXAS
IN THE UNITED STATES DISTRUCT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SHAHLA POURGHOLAM	*	
	*	
Plaintiff	*	
		Civil No. 3:01-CV 2764
	*	
V.	*	
	*	
ADVANCED TELEMARKETING	*	
CORP., d/b/a AEGIS	*	
COMMUNICATIONS GROUP,	*	
INC.	*	

ORDER

ON March 17, 2005, the Court held a pre-trial conference with the parties to discuss pending matters. The Court's rulings follow.

Defendant's objections to Plaintiff's exhibits 3,4,5,6, and 64 are **SUSTAINED.**[1] Plaintiff's exhibits 3,4,5,6, and 64 are not admitted. With the exception of exhibits 3-6, and 79 – 86, all of Plaintiff's remaining exhibits are admitted. Exhibits 79 – 86 may be admitted for impeachment purposes.

---

[1] AT THE CONFERENCE, Defendant withdrew its remaining objections to Plaintiff's exhibits.

Plaintiff's objections to Defendant's exhibits 32, 42, and 118 are **SUSTAINED**. Defendant's exhibit 29 is **OVERRULED.** With the exception of exhibits 32, 42, and 118, all of Defendant's exhibits are admitted.

With respect to Defendant's Motion in Limine, filed February 15, 2005, Defendant's Motion is **GRANTED** in part and **DENIED** in part. Having considered the Motion and the parties' oral argument at the pre-trial conference, Defendant's Motion is **GRANTED** as to any evidence of:

(1) Darryl Steen's May 1, 1980 conviction for passing a worthless check between $20 and $200;
(2) Darryl Steen's May 31, 1980 conviction for sexual assault of a child under the age of seventeen;
(3) Other lawsuits, administrative complaints, or allegations of discrimination or harassment asserted by other employees against Aegis;
(4) D'Jana Williams' July 19, 996 conviction for passing a worthless check under $20; and
(5) Settlement negotiations or offers to compromise between the parties.

With respect to evidence of Darryl Steen's November 13, 1986, conviction for aggravated sexual assault of a child the age of under fourteen, Defendant's Motion is **DENIED** with the following modification: the fact of the Darryl Steen's November 13, 1986, felony conviction may be introduced; however the nature of the charge may not be mentioned.

SO ORDERED.

Dated: March 18, 2005.

/s/ Barefoot Sanders

BAREFOOT SANDERS, SENIOR JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

NORTHERN DISTRICT OF TEXAS
IN THE UNITED STATES DISTRUCT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SHAHLA POURGHOLAM *
*
Plaintiff *
Civil No. 3:01-CV 2764
*
V. *
*
ADVANCED TELEMARKETING*
CORP., d/b/a AEGIS *
COMMUNICATIONS GROUP, *
INC. *

ORDER

Pursuant to the District Court's orders of reference came on to be heard several motions filed by the parties in this action and having considered the relevant pleadings and the statements of counsel for the parties the court finds and orders as follows:

1. Plaintiff's motions to quash filed on December 20th, 2004 and January 3rd, "20205" ("2005"), respectively. Each motion relates to subpoenas duces tecum which have been served by Defendant or third parties. Plaintiff's motion to quash will be denied.

2. Defendant's motion for permission to continue Plaintiff's deposition filed on December 13, 2004. Defendant previously took Plaintiff's deposition at a time when she was preceding pro se and prior to the time that she had produced or authorized the release of relevant medical records. Under such circumstances the court finds that Defendant's motion to continue Plaintiff's deposition should be granted, but limited to questions relating to her physical and mental health as reflected in her medical records.

3. Plaintiff's motion to compel filed on January 3, 2005. Previously the District Court granted Plaintiff's request to depose Darryl Steen and David Walker, who were employed by Defendant at the time of the incidents alleged in Plaintiff's complaint. In its order filed November 17, 2004, the District Court ordered Defendant to produce documents from "Steena's"("Steen") and Walker's personnel files to include copies of any reports with respect to background checks. No background checks were produced at the time of these individuals' depositions, nor has Defendant provided such records as of the present date, although Defendant's counsel represents that it is continuing to review files and records in an effort to locate such documents. The court is of the opinion that Plaintiff is entitled to either production of the background check documents relating to Steen and Walker or a formal written response which conforms to the requirements of Rule 34 stating that Defendant has no such records presently in its possession.

IT IS, THEREFORE, ORDERED that Plaintiff's motion to quash the subpoenas duces tecum which Defendant served on Foley's Department Store, "Spring" ("Sprint") Communications, North Lake College of Dallas County, U.S. Vision, Manpower, Wal-Mart, Las Colinas Medical Center and Parkland Health and Hospital System is denied.

IT IS FURTHER ORDERED that any documents produced by any third-party identified in the proceeding paragraph will be copied and provided to Plaintiff's counsel and that any documents produced in response to the subpoenas ducs tecum will be used solely in the prosecution and defense of this action and will not be disclosed to any third parties except by agreement of counsel or on the further order of the court.

IT IS FURTHER ORDERED that Defendant's motion for permission to continue Plaintiff's deposition is granted in part to the extent that Defendant will be permitted to question Plaintiff further on matters which relate to her past and present medical condition for up to three hours of questioning and answers by Defendant's counsel. Unless otherwise agreed to continuation of Plaintiff's deposition will take place at her attorney's offices on a date and time to be agreed upon by counsel.

IT IS FURTHER ORDERED that Plaintiff's motion to compel is granted and that on or before February 21, 2005, Defendant will either produce copies of documents which pertain to its background checks on Darryl Steen and David Walker or, in the event that such document relating to either

Steen or Walker, or both, are not in Defendant's possession, Defendant will serve a formal written response stating that such documents are not in its possession.

A copy of this order shall be transmitted to counsel for the parties.

SIGNED this 10th day of January 2005.

/s/ Wm Sanderson

WILLIAM SANDERSON
UNITED STATES MAGISTRAE JUDGE

NORTHERN DISTRICT OF TEXAS
IN THE UNITED STATES DISTRUCT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SHAHLA POURGHOLAM	*	
	*	
Plaintiff	*	
		Civil No. 3:01-CV 2764
	*	
V.	*	
	*	
ADVANCED TELEMARKETING	*	
CORP., d/b/a AEGIS	*	
COMMUNICATIONS GROUP,	*	
INC.	*	

MEMORANDUM OPINION AND ORDER

Before the Court are Defendant's Motion for Summary Judgment, filed February 25, 2004; Plaintiff's Response to Defendant's Motion for summary Judgment, filed April 30, 2004; Plaintiff's Affidavit, filed April 30, 2004; and Defendant's Reply in support of its Motion for Summary Judgment, filed May 17, 2004. for the following reasons, Defendant's motion for summary judgment is **GRANTED in part and DENIED in part.**

I. Background

Plaintiff is a woman of Iranian descent, whom Defendant employed as a customer service representative and, for a time, as a supervisor. Plaintiff worked for Defendant from February 24, 1999, until her discharge on September 27, 2201. (D.'s App. At 273, 300a). On October 19, 2001, Plaintiff filed a charge of discrimination with Equal Employment Opportunity Commission ("EEOC"), alleging supervisory sexual harassment and discriminatory discharge. (D.'s App. At99; P.'s App. At Ex 8.). Specifically, Plaintiff alleged that Defendant discharged her due to her national origin and in retaliation for complaining about the sexual harassment. (Id.) The EEOC issued Plaintiff a right to sue notice on October 23, 2001. (D.'s App. at 10-11). On December21, 2001, Plaintiff brought suit in this Court alleging various forms of discrimination and harassment in violation of Title VII and the Techs Commission on Human Rights Act ("TCHRA"). (D.'s App. at 2, 5-8). Plaintiff also asserts a claim for intentional infliction of emotional distress. (Id. at 8-9). Defendant now moves for summary judgment on all claims.

II. Summary Judgment Standard

Summary Judgment is appropriate where the facts and law as represented in the pleadings, affidavits, and other summary judgment evidence show that no reasonable trier of fact could find for the nonmoving party as to any material fact. FED. R. CIV. P. 56; *Lujan v. Nat'l wildlife Fed'n, 497* U.S. 871, 888 (1990); *Anderson v. Liberty Lobby, Inc.*, 477

U.S. 242, 251 (1986); *Celotex Corp. v. Cartrett*, 477 U.S. 317, 323, 323-25 (1986); *innovative Database Sys. V. Morales*, 990 F.2d 217 (5th Cir 1993). "The nonmoving party bears the initial burden of identifying those portions of the pleadings and discovery in the record that believes demonstrate the absence of a genuine issue of material fact, but is not required to negate elements of the nonmoving party's case." *Lynch Props., Inc. v. Potomac Ins. Co. of Ill.*, 140 F. 3d 622, 625 (5th Cir. 1998)*(*citing *Celotex, 477 U.S. at 322-25*). If the movant fails to meet its initial burden, the motion must be denied, regardless of the nonmovant's response. *Little v. Liquid Air Corp.*, 37 F. 3d 1069, 1075 (5th Cir. 1994).

If the movant does meet its burden, the nonmovant must go beyond the pleading and designate specific facts showing that a genuine issue of material fact exists for trial. *Matsusjita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986); *Edwards v. Your Credit, Inc.*, 148 f.3d 427, 431 (5th Cir. 1998). A party opposing summary judgment may not rest on mere conclusory allegation or denials in its pleadings unsupported by specific facts presented in affidavits opposing the motion for summary judgment. FED. R. CIV. P 56(e); *Lujan*, 497 U.S. at 888; *Hightower v. Texas Hosp. Ass'n* 65 F.3d 433, 477 (5th Cir 1995).

In determining whether genuine issues of facts exist, "[f]actual controversies are constructed in the light most favorable to the nonmovant, but only if if both parties have introduced evidence showing that a controversy exist." *Lynch*, 140 f.3d at 625; *see also Eastman Kodak v. Image*

Technical Servs., 504 U.S. 451 (1992). However, in the absence of any proof, the Court will not assume that nonmoving party could or would prove the necessary facts. *Lynch*, 140 F.3d at 625. A party must do more than simply show some "metaphysical doubt as to material facts". *Matsushita*, 475 U.S. at 586. "If the record, taken as a whole, could not lead a rational trier of fact Co., 948 F.2d 972, 974 (5th Cir. 1991).

III. Analysis

At various points in the history of this case, Plaintiff has asserted the following causes of action against Defendant: (1) harassment based on national origin; (2) harassment based on race; (3) supervisory sexual harassment; (4) co-worker sexual harassment; (5) discriminatory failure to promote based on national origin; (6)discriminatory demotion based on national origin; (7)discriminatory suspension based on national origin; (8)discriminatory demotion based on national origin; (9)discriminatory discharge based on national origin; (10) discriminatory discharge based on race; (11) retaliation for engaging in a protected activity; and (12) intentional infliction of emotional distress. In her response, Plaintiff withdraws her cause of action for discriminatory demotion based on her national origin. (P.'s Resp. at 1, 5). Because all of the remaining causes of action-with the exception of intentional infliction of emotional distress arise under Title VII, TCHRA, or both, Plaintiff must demonstrate that she has exhausted her administrative remedies as to those causes of action. *See Taylor v. Brooks A Million, Inc.*, 296 F.3D 376, 379 (5th Cir.

2002)(holding that title VII "[[e]xhaustion occurs when the plaintiff files a timely charge with the EEOC and receives a statutory notice of right to sue" and that the filing of a charge with EEOC is not a jurisdictional prerequisite but a precondition to filing suit in federal court); *M.D. Anderson Hospital and Tumor Institute v. Willrich*, 28 S.W. 3d 22, 24 (Tex. 2000)(holding that Texas Legislature intended to correlate state law with federal law in employment discrimination cases). Accordingly, the court will visit the issue of exhaustion before turning to the merits of the claims that are properly before this Court.

A. Exhausion

As noted above, Plaintiff filed a charge of discrimination with the EEOC on October 19, 2001, alleging that her supervisor sexually harassed her and that Defendant discharged her due to her national origin and in retaliation for complaining about the sexual harassment. (D.'s App.at99; P.'s App. at Ex.8.). Thus, Plaintiff's charge of discrimination is limited to a charge of supervisory sexual harassment, discriminatory discharge based on national origin, and retaliation for engaging in a protected activity. The Court concludes that Plaintiff's remaining Title VII and TCHRA causes of action are outside the scope of the EEOC investigation that could have reasonably expected to grow out of Plaintiff's charge of discrimination. *See Thomas v. Texas Dep't of Criminal Justice*, 220 F.3d 389, 395 (5th Cir. 2000). Accordingly, Plaintiff's causes of action for harassment based on national origin, harassment based on race, co-worker sexual harassment, discriminatory failure to

promote based on national origin, discriminatory suspension based on race, and discriminatory discharge based on race are hereby **DISMISSED** for failure to exhaust administrative remedies.

The Court now turns to the merits of Plaintiff's remaining causes of action, i.e., supervisory sexual harassment, discriminatory discharge based on national origin, retaliation for engaging in a protected activity, and intentional infliction of emotional distress.

B. Supervisory Sexual Harassment

Plaintiff alleges that her Supervisor-Darryl Steen ("Steen")-sexually harassed her from May or June 2001 until her discharge on September 27, 2001, in violation of Title VII. Defendant moves for summary judgment on the grounds that (1) Plaintiff has presented no evidences that the supervisor's alleged conduct altered the terms of her employment, and (2) even if Plaintiff has presented sufficient evidence of supervisory sexual harassment, Plaintiff has not raised any genuine issue of material facts as to Defendant's entitlement to the affirmative defense outlined in *Burlington Indus., Inc. v. Ellerth,* 524 U.S. 742 (1998), *and Faragher v. City of Boca Raton,* 524 U.S. 775 (1998). (D.'s Br. At 10-13 n.4.)

In analyzing a supervisory sexual harassment claim, a court must first determine whether the plaintiff suffered a tangible employment action. *See Wyatt v. Hunt Plywood Co., Inc.*, 297 F. 3d 405, 409 (5th Cir. 2202). If so, the case is

classified as a quid pro quo case; if not, the case is classified as a hostile work environment case. *See Id. See also Handzlik v. United States*, 93 Fed.Appx. 15, 17 (15th Cir. 2004)(holding that there must be a nexus between the tangible employment action and the plaintiff's acceptance or rejection of [her] supervisor's alleged sexual harassment") (internal quotations omitted).

In hostile work environment cases, a plaintiff must show the following to establish supervisory sexual harassment:

(1) The employee belongs to a protected group;
(2) The employee was subjected to unwelcome sexual harassment;
(3) The harassment complained of was based on sex; [and]
(4) The harassment complained of affected a "term, condition or privilege of employment," i.e., the sexual harassment must be sufficiently severe or pervasive so as to alter the condition of employment and create an abusive working environment.

Watts v. Kroger Co., 170 F.3d 505, 509 (5th Cir. 1999). "[A] sexually objectionable environment must be both subjectively and objectively offensive, "considering the totality of the circumstances. Green v. Administrative of *Tulane Educational Fund*, 284 F. 3d 642, 655 (5th Cir. 2002). In examining whether a hostile work environment exists, the Court must look to "the frequency of the discriminatory conduct; its severity; whether it is physically threatening or

humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance." *Cain v. Blackwell*, 246 F.3d 758, 760 (5th cir. 2001)(citing *Harris v. Forklift Systems, Inc.*, 510 U.S. 17, 21 (1993)) (internal quotations omitted).

Once a plaintiff has established supervisory sexual harassment based on hostile work environment, an employer is vicariously liable unless the employer can establish both prongs of the *Ellerth/Faragher* affirmative defense. That affirmative defense requires:

(a) that the employer exercised reasonable care to prevent and correct promptly any sexually harassing behavior, and

(b) that the plaintiff unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

Watts, 170 F.3d at 509-10.

In the instant case, the summary judgment record contains the following evidence: affidavit and documentary evidence that Steen is a registered sex offender with two felony convictions for sexual offenses (P.'s at Ex 3; P's Aff. at 4); affidavit and documentary evidence that Defendant obtains background checks on prospective employees as a condition of employment (P.'s App. at Ex. 5; P.'s Aff. At 6-7); Plaintiff's affidavit statement that "[I]n May or June

2001, my immediate supervisor, Darryl Steen, sexually harassed me. Darryl Steen made offensive, abusive...and unwelcome advances upon me during this time which became condition of my employment" (P.'s Aff.at 3); Plaintiff's deposition testimony that Steen first sexually harassed her when he laid down on the ground and asked her to walk on his back (D.'s App. At 79, 81, 87); Plaintiff's deposition testimony that, on one occasion in May or June 2001 when they were the last two people at work, Steen pulled his van behind Plaintiff's car so that she could not leave and asked her to go to a motel with him and to get a drink with him (D.App. at 79-80); Plaintiff's deposition testimony that Steen asked her on several occasions to go to a motel with him (D.'s App. At 79-98); Plaintiff's deposition testimony that Steen told her that he wanted to move in with him and that he wanted to have group sex (D.'s App. At 79, 82, 98); Plaintiff's deposition testimony that Steen followed her during one of her breaks, walking very close behind her such that she had to tell him not to stand so close (D.'s App. At 80); Plaintiff's deposition testimony that Steen would often walk with her during her breaks and that, during on such walk, Steen told her that he wanted to grab her, put her on his lap, and spank her (D.'s App. At 3-4); Plaintiff's deposition testimony that on many occasions Steen threatened to shoot her in the head and kill her (D.'s App. At 79, 81, 82); Plaintiff's letter, dated September 27, 2001, to various managers in which she describes how Steen, along with others, discussed in Plaintiff's presence how to cut someone's throat from ear to ear, as well as how to shoot someone in the head such that the hole in the head would be bigger (P.'s App. At 6); Plaintiff's letter, dated September 27,

2001, to various managers in which she reports that Steen "Constantly talks about shooting people" (P.'s App. At Ex. 6); Plaintiff's deposition testimony that Steen would "take her off the system" because Plaintiff would not sleep with him (D.'s App. At 88); Plaintiff's affidavit statement that "I reported in May, June, July, August, and September 2001 the abusive, offensive, and discriminatory conduct of management to Lisa Lewis, Ella Dickerson, David Walker, Operation Manager. My complaints were ignored. No remedial action was ever taken to address my complaints" (P.'s Aff. At 4); Plaintiff's deposition testimony that she reported Steen's threats and sexual harassment to Lisa Lewis, telling Lewis "a little bit" about the harassment despite being scared to do so due to Steen's threat of killing her (D.'s App. at 82-83); a handwritten note, apparently by Lisa Lewis, referencing an investigation into Plaintiff's allegation of sexual harassment (D.'s App. at 425; Plaintiff's letter, dated September 27, 2001, to various managers referencing sexual harassment and accusing certain supervisors including Steen, of abusing her and stressing her out. (P.'s App. at Ex. 6); declaration of David Walker, Operations Manager, confirming that Steen became Plaintiff's supervisor in February 2001 and remained so until her discharge (D.'s App. at 624, 714); Plaintiff's deposition testimony that she did not sleep with Steen and that she believed he retaliated against her for that by discharging her (D.'s App. at 98); and Plaintiff's deposition testimony that, immediately after discharging her, Steen told her "that happens to people he fires, people who don't sleep with him" (D.'s App. at 78a).

The Court concludes that there are genuine issues of material fact as to whether Plaintiff suffered a tangible employment action because of Steen's alleged sexual harassment. The Court further concludes that there are genuine issues of material fact as to *quid pro quo sexual harassment* and as to hostile work environment, including Defendant's entitlement to the *Ellerth/Faragher* affirmative defense. Accordingly, Defendant's motion for summary judgment is **DENIED** as to supervisory sexual harassment.

C. Discriminatory Discharge (National Origin)

Plaintiff alleges that Defendant discharged her based on her national origin, Iranian, in violation of Title VII and TCHRA. Defendant moves for summary judgment on the grounds that (1) Plaintiff cannot establish a prima facie case of discriminatory discharge based on national origin, and (2) even if Plaintiff could establish a prima facie case, Plaintiff cannot establish that Defendant's legitimate, non-discriminatory reason for discharging Plaintiff amounted to pretext for national origin discrimination. (D.'s Br. At 20-22.)

The Court employs the same legal standards in analyzing discrimination claims under Title VII and TCHRA. See *M.D. Anderson Hospital and Tumor Institute v. Willrich,* 28 S.W. 3d 22, 24 (Tex. 2000) (holding that the Texas Legislature intended to correlate state law with federal law in employment discrimination cases). The Court evaluates discrimination claims that rely on circumstantial evidence by employing the burden-shifting approach announced in

McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973). *See West v. Nabors Drilling USA, Inc.*, 330 F. 3d 379, 383 (5th Cir. 2003); *Long v. Eastfield College*, 88 F.3d 300, 304 (5th Cir. 1996) The Supreme Court developed this approach "to deal with cases in which discrimination can be proved only by circumstantial evidences."*Evans v. City of Houston*, 246 F.3d 344, 350 (5th cir. 2001) (citing *Reeves v. Sanderson Plumbing Prods. Inc.*, 530 U.S. 133 (2000)).

Under the burden-shifting approach, a plaintiff is first required to establish a *prima facie* case of discrimination. See Meinecke v. H & R block of Houston, 66 F 3d 77, 83 (5th Cir. 1995). If the plaintiff establishes a *prima facie* case, the burden shifts to the defendant to articulate a "legitimate, non-discriminatory justification for its actions." Evans, 246 F.3d at 350. "If the defendant can articulate a reason that, if believed, would support a finding that the action was non-discriminatory, the mandatory inference discrimination created by the Plaintiff's *prima facie case* drops out of the picture and the fact finder must decide the ultimate question: whether the plaintiff has proved intentional discrimination." Id. (internal quotations omitted). In establishing this ultimate question, "the plaintiff can rely on evidences that the employer's reasons were a pretext for unlawful discrimination...,and the fact finder may still consider the evidences establishing plaintiff's prima facie case and inferences properly drawn therefore." *Id.*

To establish a *prima facie* case of discriminatory discharge based on national origin, a plaintiff must show (1) that she was a member of a protected class; (2) that she was

qualified for the position; (3) that she was discharged; and (4) [that] after she was discharged, she was replaced with a person who [was] not a member of the protected class" or that the employer acted in some other manner to indicate that the decision to discharge was based on national origin. *Framk v. Xerox Corp.*, 347 f. 3d 130, 137 (5th Cir. 2003); *Meinecke v. H & R Block of Houston*, 66 F. 3d 77, 83 (5th Cir. 1995).

In the instant case, there is no serious dispute that Plaintiff has satisfied the first three prongs of her prima facie case. However, the record is devoid of any competent summary judgment evidence that Defendant discharged Plaintiff due to her Iranian descent. Although the summary judgment record contains evidence that certain co-workers and customers made isolated comments that could be construed as derogatory and disrespectful of Plaintiff's national origin (D.'s App. at 45, 46a, 47, 51, 93), there is no evidence that those who actually discharged her did so because of her national origin. Most significantly for purpose of *prima facie* analysis, the summary judgment record contains no evidence as to the national origin of the person who replaced Plaintiff. Accordingly, Defendant's motion for summary judgment is **GRANTED** as to discriminatory discharge based on national origin.

D. ***Retaliation***

Plaintiff alleges that Defendant discharged her in retaliation for complaining about the supervisory sexual harassment, discussed above, in violation of Title VII.

Defendant moves for summary judgment on the grounds that (1) Plaintiff cannot establish a *prima facie* case of retaliation, and (2) even if Plaintiff could establish a *prima facie case*, Plaintiff cannot establish that Defendant legitimate, non-discriminatory reason for discharging Plaintiff amounted to pretext for retaliation. (D.'s Br. 23-24).

Title VII prohibits retaliation against an employee who engages in protected conduct, such as complaining about an unlawful employment practice. See 42 U. S. C. §2000e-3(a). To establish a prima facie case of retaliation, a plaintiff must show that (1) she engaged in a protected activity; (2)she suffered an adverse employment action; and (3) a "causal link existed between the protected activity and the adverse employment action." *Gee v. Principi*, 289 F. 3d 342, 345 (5th Cir. 2002).

In the instant case, the Court concludes that summary judgment record raises genuine issues of material fact as to Plaintiff's prima facie case of retaliation. Although the court recognizes that Defendant had presented evidence of legitimate, non-retaliatory reason for discharging Plaintiff, the Court further concludes that summary judgment record raises genuine issues of material fact as to pretext. Accordingly, Defendant's motion for summary judgment is **DENIED** as to retaliation for engaging in a protected activity.

E. Intentional Infliction of Emotional Distress

Finally, Plaintiff asserts a cause of action for intentional infliction of emotional distress under state law. Defendant moves for summary judgment on the ground that Defendant's alleged conduct is not sufficiently extreme or outrageous, as a matter of law, to support a claim for intentional infliction of emotional distress. (D.'s Br. At 24n.16.)

To prevail on a claim for intentional infliction of emotional distress, a plaintiff must establish that: (1) the defendant acted intentionally or recklessly; (2) the defendant's conduct was extreme and outrageous; (3) the defendant's actions caused the plaintiff emotional distress; and (4) the emotional distress suffered by the plaintiff was severe. See Benners v. Blanks Color Imaging, Inc., S.W. 3d -, 2004 Wl 937902, at *__ (Tex.App.-Dallas May 2, 2004) (no pet. h.). In the instant case, the summary judgment record contains no evidence of severe emotional distress. Accordingly, Defendant's motion for summary judgment is **GRANTED** as to intentional infliction of emotional distress.

IV. Conclusion

For the foregoing reasons, Defendant's motion for summary judgment is **GRANTED in part** and **DENIED in part.** Specifically, Plaintiff's causes of action for harassment based on national origin, harassment based on race, co-worker sexual harassment, discriminatory failure to promote based on national origin, discriminatory suspension based on national origin, discriminatory suspension based on race, and discriminatory discharge based on race are hereby **DISMISSED** for failure to exhaust

administrative remedies. Defendant's motion for summary judgment is **GRANTED** as to Plaintiff's causes of action for discriminatory discharge based on national origin and intentional infliction of emotional distress. Finally, Defendant's motion for summary judgment is **DENIED** as to Plaintiff's supervisory sexual harassment and retaliation for engaging in a protected activity.

SO ORDERED.

Dated: June 9th, 2004.

/s/ Barefoot Sanders

BAREFOOT SANDERS, SENIOR JUDGE
UNITED STATES DISTRICT COURT
NORHTERN DISTRICT OF TEXAS

NORTHERN DISTRICT OF TEXAS
IN THE UNITED STATES DISTRUCT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SHAHLA POURGHOLAM	*	
	*	
Plaintiff	*	
		Civil No. 3:01-CV 2764
	*	
V.	*	
	*	
ADVANCED TELEMARKETING CORP., d/b/a AEGIS COMMUNICATIONS GROUP, INC.	*	

ORDER

Pursuant to the District Court's order of reference filed on June 26, 2002, on this date came on to be heard Defendant's motion to compel filed on June 25, 2002, and

IT IS ORDERED that Defendant's motion is granted as follows:

1. Plaintiff's objections to Defendant's discovery are overruled.

2. within fifteen (15) days of the date of this order Plaintiff will serve full and complete answers to Defendant's First Set of Interrogatories , but limited to the period of January 1, 1997, to the present.

3. Within fifteen (15) days of the date of this order Plaintiff will serve full and complete responses to Defendant's First Request for Production of Documents, but limited to the period of January 1, 1997, to the present. At the hearing Plaintiff informed the court that all documents responsive to Defendant's document request were in her possession in the courtroom. The court directed Plaintiff to provide the documents to Defendant's counsel at the conclusion of the hearing so that they could be copied and the originals be returned to Plaintiff. In responding to Defendant's requests Plaintiff is permitted to respond to an individual request that: "All documents called for in this request have been provided to Defendant's counsel" when appropriate. To the extent that Plaintiff has no documents responsive to a specific request she should respond that "Plaintiff has no documents responsive to this request."

IT IS FURTHER ORDERED that any information provided in answer to interrogatories 4, 6, 7, 10(d) and (e) and 12, and documents produced in response to Requests 3, 6, 7, 8 and 10 will not be disclosed to anyone other than the parties, their counsel and any expert retained by a party, except upon agreement of Plaintiff or on further order of the court.

The court further finds that Plaintiff's objections to Defendant's discovery were not substantially justified and

that other circumstances would not make an award of expenses unjust. Specifically the court notes that Defendant's counsel communicated with Plaintiff by letter and by telephone on a number of occasions in an effort to obtain the requested discovery, asserting non-meritorious objections to the same. The court further finds that Defendant incurred reasonable attorney' fees and expenses in the preparation, filing and presentation of its motion to compel in the amount of $1,200.00.

IT IS THEREFORE, ORDERED that Plaintiff will pay to Defendant the sum of $1,200.00 as sanctions. Because Plaintiff does not presently have funds available for payment of the sanctions the $1,200.00 will be deducted from any damages awarded to Plaintiff, if judgment is entered in Plaintiff's favor or will be deducted from any funds received from Defendant in settlement of this action, unless waived by Defendant.

A copy of this order shall be transmitted to Plaintiff and counsel for Defendant.

SIGNED this 17th day of July, 2002.

/s/ Wm Sanderson

WILLIAM SANDERSON
UNITED STATES MAGISTRATE JUDGE

Supreme Court, U.S.
FILED

051474 MAY 8 - 2006

OFFICE OF THE CLERK

No. _____

In The

Supreme Court of the United States

SHAHLA POURGHOLAM,

Petitioner,

v.

ADVANCED TELEMARKETING CORP., d/b/a AEGIS COMMUNICATIONS GROUP INC,

Respondent.

Appendix Two of Two (II of II) in Support of Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

SHAHLA POURGHOLAM
PRO SE PETITIONER
P O BOX 824311
DALLAS, TX 75382
shahlap@msn.com

May 2006

TCHRA AND TITLE VII AS AMENDED

TCHRA and Title VII of Civil Rights Act of 1964, Section 704 (a), 42 U.S. C. § 2000e-3(a), et seq; Section 706(g), 42 U.S.C. § 2000e-5(g); as amended. 42 U.S. C.§ 1001 et, 42 U.S.C §2000e, et seq. 1964, 1983, 1991,42 U.S. C. § 2000e-5(f)(3), Tex. Lab. Code § 21.051 (1), et seq; the common law of the State of Texas, the Constitution of the State of Texas which provides:

An employer is liable for tangible and intangible damages for intentional infliction of emotional distress, discrimination, and disparate treatment based on the age, race, color, national origin, disability, religion, sex, sexual harassment, harassment, and retaliation when the employer fails to investigate and refuses to hire an individual, discharges an individual, endorses hostile work environment, endorses sexually hostile work environment, endorses an environment of discrimination, endorses harassment, endorses increased criticism and reprimands of an individual, suspends an individual, causes demotion in violation of Title VII, denies the opportunity for advancement and promotion in violation of Title VII, constructively discharges an individual, wrongfully terminates an individual, and discriminates against an individual in any manner that affects compensation, terms, conditions and privileges of an individual's employment In addition, the employer is vicariously responsible in quid pro quo sexual harassment cases; in cases that the employer discriminates in obtaining, conducting, processing, and implementing employee applications and background checks, and in cases that

employer fails to take any corrective action, particularly after receiving notice from EEOC.

Administrative Procedure Act

Sec. 702. -Right of Review. A person suffering legal wrong because of an action(s) or adversely affected or aggrieved by an action(s) within the meaning of a relevant statute(s), is entitled to judicial review thereof. An action in a court of the United States seeking relief shall not be dismissed, nor relief therein be denied. The Court cannot deny judicial review or use its power to dismiss any action or deny relief on any appropriate equitable ground; or confers authority to grant relief if any statute that grant consent to suit expressly or impliedly forbids the relief which is sought.

Sec. 703. - Form and Venue of Proceeding. The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by the statute or, in the absence or inadequacy thereof, any applicable form of legal action, including actions in civil or criminal proceeding in a court of competent jurisdiction for judicial enforcement.

Sec. 704. - Actions reviewable. A court's decision is subject for judicial review by statute or final action for which there is no other adequate remedy for direct review. A preliminary, procedural, or intermediate ruling is subject to review on the review of the final ruling.

Sec. 706. – Scope of review. To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms: (I) hold a party responsible for unlawfully withholding evidence; (2) hold unlawful (A) arbitrary, capricious, an abuse of discretion that is not in accordance with law (C) in access of statutory jurisdiction, authority, or limitations, or short of statutory right; (D) without observance of procedure required by law; (E) unsupported by substantial evidence in a case on review; or (F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. In making the foregoing determinations, the court shall review the whole record and due account shall be taken of the rule of prejudicial error.

Texas Code of Criminal Procedure

Relevant Portions of Texas Code of Criminal Procedure § 7 – § 7.01 (a) - Parties to Offenses – A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or both; § 7.01 (b) – Each Party to an offense may be charged with commission of the offense; § 7.01 (c) – All traditional distinctions between accomplices and principals are abolished by this section and each party to an offense may be charged and convicted without alleging that he acted as a principal or accomplice.

Relevant Portions of Texas Code of Criminal Procedure § 7.02 – Criminal Responsibility for Conduct of Another - § 7.02 (a)(2) – acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, attempts to aid the other person to commit the offense; § 7.02 (a)(3) – having a legal duty to prevent commission of the offense and citing with intent to promote or assist its commission of the offense; § 7.02 (b) – If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in the furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy.

Aegis Supervisor "Darryl Steen's" Terms and Conditions of Registered Sex Offender Parole

a. **As a condition of his parole** Darryl Steen was not to go in, on, or about **where** children commonly gather, **nor shall he supervise** or participate in any program that includes as participants persons who are 17 years of age or younger.
b. Darryl Steen is not to **possess,** or to cause to **be purchased or** subscribed to, any literature, or videotapes **which** depict sexually explicit images, nude or partially nude people**, nor communicate or cause to communicate with a person for sexually explicit purposes through telecommunications or any other electronic means, including 1-900 services.**
c. **Darryl Steen is not to cause to communicate with a** person nude or partially nude **people.**
d. **As a condition of his Parole Darryl Steen is not to own, posses, use, prohibited weapon or illegal weapon nor** attempt or threaten to use any tool, implement **or object to** cause or threaten to cause any bodily injury.
e. **As a condition of his Parole Darryl Steen is not to associate with persons of criminal background.**
f. **Darryl Steen was under mandatory Sex Offender Supervision and had to adhere to** curfew **specified by his supervising parole officer.**
g. **As a condition of his parole Darryl Steen is assigned to the** highest level of supervision caseload.
h. **As a condition of his parole,** Darryl Steen is to be electronically monitored as approved by release's supervising parole officer.
i. **Darryl Steen is not to participate in any volunteer or**

volunteer any services **without prior Board Panel approval. In paragraph 13 of his parole conditions, Darryl Steen as not to operate a motor vehicle unless specifically authorized by his supervising parole officer. Darryl Steen had three cars an economy size metallic blue economy car, a light yellow with wooden pattern brown stripe American made station wagon car, and a white van.**

David Walker Registered Sex Offender Information

David Walker's Picture

Signature: **/s/ David Walker**

Irving Police Officer Mark Talley's Two Counts of Indecency with a Child

CBS 11 – Dallas / Forth Worth

Local News

Mar 23, 2006 2:45 pm US/Central

Irving Police Officer Charged With Indecency With a Child

(CBS 11 News) IRVING An Irving Police officer is facing charges of indecency with a child.

The Irving Police Department's public information officer, David Tull, tells CBS 11 that Officer Mark Talley was arrested Thursday..

Tull said Talley was arrested after a 12-year-old girl said an adult male acquaintance had touched her inappropriately. Police and workers from the Texas Department of Family and Protective Services investigated, and **Talley turned himself in to the Irving City Jail** at 1 p.m. Thursday.

Tull said the Dallas County Grand Jury will decide whether to formally charge Talley. He is currently on administrative leave.

(MMVI, CBS Broadcasting Inc. All Rights Reserved.)

Ms. Pourgholam's Day Two CoutroomTestimony, Vol II, Page 178, Cross Examination by Aegis Counsel

"Q. Okay. Well, turn to page 1529."

"A. Page 1529?"

"Q. Yes, ma'm."

"A. It will be just a moment. Okay. I am there."

"Q. Okay. And this is actually a report by Officer **Mark Tally** where you had complained that your boss had said that he was going to shoot you."

"A. Okay. Actually the original report was on September 27th."

"Q. Okay."

"A. So this was the information report on his part."

"Q. Well, all I am asking you right now, this is actually **a report by Mark Tally about your complaint that your boss said that he was going to shoot you.** Isn't that correct?"

"A. Well, when they first got the report they sent it to an investigator, and then they sent it to Mark Tally. So Yes, in that sequence, yes."

"Q. Okay. In this report, Mr. Tally or Officer Tally says that he actually interviewed the witness who you said was present when Mr. Steen allegedly said that he was going to shoot you, and do you see in here that the witness denied that Mr. Steen said that literally, and that he was only using it as a figure of speech? Do you see that in this record that is marked 1529? And that is all I am asking you, Ms. Pourgholam,yes or no do you see it?"

"A. I need to read it and then I will be happy to answer you."

Irving Police Officer Charged with Use of Excessive Force Against a Hispanic Man During A Traffic Stop

CBS 11 – Dallas/ Forth Worth

Local news

(CBS 11 News) IRVING An Irving Police Officer has been charged with use of excessive force against a Hispanic man during a traffic stop in January 2005. Officer Miller has been with Irving Police for 29 years. The Videotape of the incident is expected to be presented to the Jury.

(MMVI, CBS Broadcasting Inc. All Rights Reserved.)

Police Reports from Aegis Irving, Texas facility that Plaintiff worked during the time that Plaintiff was employed by Aegis as Supervisor and later as CSR

Harassment 01-029105, 01-005360, 00-019931, threatening an employee with a gun pointed at complaint head 01-015033, cursing an employee and trying to run over her with a car 00-031793, beating an employee 01-037635, assaulting an employee 01-005742, spitting on an employee and making obscene gestures 01-012680, hitting an employee 00-037080, slashing an employee's car tires and placing sugar in the tailpipe of an employee's car 00-025015, breaking lock of an employee's car and taking what is in the car 01-009558, cutting an employee's car tires and causing damage to the car 02-005971, threatening and retaliating against an employee 01-023059, many theft reports by employees while these employees were at work and during Defendant's business hours and on its property 00-024866, 00-037193, 00-003801, 00-009259, 01-013720, 01-004216, 01-024308, 01-037578, 00-036180, 00-022394, 02-002951, 02-025453, 02-020168, 02-016632, 00-034915, 00-025322, 02-010859, auto theft 01-001641, theft 00-031786, 00-031335, 01-023037, 00-029536, 00-029030, 00-034356, punching an employee in the face and stomach 02-035034, pulling an employee out of his car and hitting him, 02-014945, robbery 02-032731, damaging an employee's vehicle 02-028385, 02-031816, 02-018889, vandalizing an employee's car 03-002736, 04-016041, theft 02-016632, 02-028367, 02-0296923, 03-001265, theft 02-016632, auto theft 02-018889, vandalizing employees car 03-002736, 02-031816, and illegal drug violations.

Discrimination Lawsuits against Advanced Telemarketing Corp., d/b/a Aegis Communications Group, Inc in Federal District Court for the Northern District of Texas Dallas Division

Civil No. 3:90-CV-00468, Schweitzer v. Advanced Telemarketing Corp, et al.

Civil No. 3:94-CV-01040, Holmes v Advanced Telemarketing, et al.

Civil No. 3:96-CV-01758, Ransom v. Advanced Telemarketing, et al.

Civil No. 3:97-CV-01225, Spencer v. Advanced Telemarketing; Civil No. 3:98-CV-01726, Jackson, et al v. Advanced Telemarketing, et al.

Civil No. 3:98-CV-00363, Abasika v. Advanced Telemarketing.

Civil No. 3:01-CV-01777 Broadus v. Aegis Communications.

Civil No. 3:02-CV-00550, Meerza v. Aegis Communications.

Civil No. 3:04-CV-01561, Lopez v. Aegis Communications Group Inc; also see lawsuit against Aegis Healthcare Systems.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SHAHLA POURGHOLAM,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 3:01-
	)	CV-2764-H
ADVANCED TELEMARKETING	)	
CORP., d/b/a AEGIS	)	
COMMUNICATIONS GROUP, INC.,)		
	)	
Defendant.	)	

PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL ON APPEAL

TO THE HONORABLE COURT:

Plaintiff Shahla Pourgholam asks the court to grant Plaintiff's Motion to Appoint an Attorney on Appeal for the following reasons:

1. There were important evidences that Plaintiff's attorney did not offer into evidence in the trial of this case. The evidence is material to the case and would likely produce a different result in a new trial or Plaintiff's appeal.

PAGE S-54 WAS NOT PROVIDED BY THE PETITIONER FOR THE
SUPREME COURT AS OF THIS PUBLICATION DATE.

enough time to take further legal actions against Defendant for not complying with court orders and Plaintiff's Motion to compel.

3. Defendant had obtained summary Judgment(s) on Plaintiff's claims without producing important Discovery documents. Due to other court proceedings, Plaintiff's attorney did not have enough time to prepare for Joint Pre Trial Order subjects such as Plaintiff's claims, designation of Expert witnesses, witnesses, Stipulated Facts, Contested issues of law, motions in limine, etc. Plaintiff also did not have an opportunity to verify all Exhibits and the accuracy of them prior to the trial.

4. Plaintiff also requests that a copy of court transcripts be made available to plaintiff.

Thus, Plaintiff's case was dismissed due to error in facts and/or law. Since there is a short time frame to appeal a case, "In the Interest of Justice" Plaintiff asks the court to provide another attorney on appeal in this case.

Respectfully submitted this 25th day of March, 2005.

/s/ Shahla Pourgholam

Shahla Pourgholam
Pro Se Plaintiff
P. O. Box 824311
Dallas, Texas 75382-4311

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the PLAINTIFF'S MOTION FOR APPOINTMENT OF CONSUL ON APPEAL has been served via United States Certified Mail, return receipt requested, postage prepaid to below-listed counsel of record, on the 25th day of March 2005:

Alisa L. Pittman
William A. Pinto, Jr.
Elarbee, Thompson, Sapp & Wilson, L.L.P.
800 International Tower
229 Peachtree Street, N.E.
Atlanta, GA 30303

James C. Orr
Heygood, Orr & Reyes, L.L.P.
909 Lake Carolyn Parkway, 17th fl.
Irving, Texas 75039

/s/ Shahla Pourgholam

Shahla Pourgholam
P O Box 824311
Dallas, Texas 75382
Tel: 972-567-6464

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SHAHLA POURGHOLAM,	)	
	)	
Plaintiff,	)	
v.	)	Civil No. 3:01-CV-2764-H
	)	
ADVANCED TELEMARKETING CORP., d/b/a AEGIS COMMUNICATIONS GROUP, INC.,	)	
	)	
Defendant.	)	

NOTICE OF APPEAL

TO THE HONORABLE COURT:

Notice hereby given that Shahla Pourgholam, the Plaintiff in the above named case, hereby appeals to the United States Court of Appeals for the Fifth Circuit from the "final Judgment" and "Order" granting dismissal of Plaintiff's Sexual harassment and retaliation claims on March 24, 2005 and each/all Judgment(s) including each/all claims that were dismissed due to granting Summary Judgment(s) signed and filed on June 09, 2004. Plaintiff will file her brief within time frame allowed in FRCP and Local Rules of Civil Procedure.

THIS APPEAL IS FILED AGAINST ADVANCED

TELEMARKETING CORP., d/b/a AEGIS COMMUNICATIONS GROUP INC.

Respectfully submitted,

/s/ Shahla Pourgholam

Shahla Pourgholam
Pro Se Plaintiff
P. O. Box 824311
Dallas, Texas 75382-4311

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Plaintiff's Notice of Appeal has been served via United States Certified Mail, return receipt requested, postage prepaid to below-listed counsel of record, on the 25th day of March 2005:

Alisa L. Pittman
William A. Pinto, Jr.
Elarbee, Thompson, Sapp & Wilson, L.L.P.
800 International Tower
229 Peachtree Street, N.E.
Atlanta, GA 30303

James C. Orr
Heygood, Orr & Reyes, L.L.P.
909 Lake Carolyn Parkway, 17th fl.
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/s/ Shahla Pourgholam

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P O Box 824311
Dallas, Texas 75382
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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SHAHLA POURGHOLAM,	)	
	)	
Plaintiff,	)	
v.	)	Civil No. 3:01-CV-2764-H
	)	
ADVANCED TELEMARKETING CORP., d/b/a AEGIS COMMUNICATIONS GROUP, INC.,)	)	
	)	
Defendant.	)	

PLAINTIFF SHAHLA POURGHOLAM'S FIRST AMENDED NOTICE OF APPEAL

TO THE HONORABLE COURT:

Notice hereby given that Shahla Pourgholam, the Plaintiff in the above named case, hereby submits her First Amended Notice of Appeal to the United States Court of Appeals for the Fifth Circuit for relief from "final Judgment" and "Order" granting dismissal of Plaintiff's sexual harassment and retaliation claims on March 24, 2005; and each/all Judgment(s) including each/all Plaintiff's claims that were dismissed due to granting Summery Judgment(s) signed and filed on June 09, 2004, and to alter and amend each/all previously and concurrently entered interlocutory orders and decisions of the court against Plaintiff. Plaintiff will file her

brief within time frame allowed in FRCP and Local Rules of Civil Procedure.

THIS FIRST AMENEDED NOTICE OF APPEAL IS FILED AGAINST ADVANCED TELEMARKETING CORP., d/b/a AEGIS COMMUNICATIONS GROUP INC.

Respectfully submitted this day of 23rd April, 2005.

/s/ Shahla Pourgholam

Shahla Pourgholam
Pro Se Plaintiff
P. O. Box 824311
Dallas, Texas 75382-4311

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Plaintiff's Notice of Appeal has been served via United States Certified Mail, return receipt requested, postage prepaid to below-listed counsel of record, on the 23rd day of April 2005, address as follows:

Alisa L. Pittman
William A. Pinto, Jr.
Elarbee, Thompson, Sapp & Wilson, L.L.P.
800 International Tower
229 Peachtree Street, N.E.
Atlanta, GA 30303

This 23rd day of April, 2005.

/s/ Shahla Pourgholam

Shahla Pourgholam
P O Box 824311
Dallas, Texas 75382
Tel: 972-567-6464

Request for Records on Appeal

To: Ms. Mary Stewart and/or other USCA Clark of the office for the 5th Circuit

From: Shahla Pourgholam

Date: 03/29/2006

RE: Obtaining certified copies of original ROA for case NO: 05-10502

Dear Madam:

I am writing this letter because for approximately one year I have been trying to obtain the entire original ROA records for the case NO. 05-10502. After the panel had dismissed my case and refused to grant an extension of time to Amend Appellant's Petition for rehearing en banc, I finally have received the complete original ROA records in its entirety. However, the original ROA record that has been sent to me is missing a lot of records for example the exhibits that are in support of the district court record #166, Amended Pretrial Order, Aegis employees report of assaults to Irving Police, ten other Aegis employees laws suits against Aegis

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Appellant Shahla Pourgholam Second Request to receive certified original ROA Trial and additional court records. The panel had dismissed Ms. Pourgholam case and denied Appellant's Motion to Extend Time to file Appellant's Amended Petition for rehearing en banc, and then Appellant received original ROA Trial records and additional court records.

4. Plaintiff's trial exhibit 27, Aegis Final Assessment.
5. Plaintiff's trial exhibit 28, date February 23rd, 2001. Please certify each page. Two pages total.
6. Plaintiff's trial exhibit #69, just the front page.
7. Defendant's trial exhibit #83, Darryl Steen came on his day off to use Michael Duce's ID to send the email on 09/26/2001, so that "Steen" would not be held responsible for violating his curfew, the time of email is 11:42 PM, the email Identifies at least two calls for 09/26/2001, and four telephone numbers.
8. Aegis EEO Policy for management to treat employees like their son, daughter, spouse, etc, the district court record #107. All three pages including Aegis EEO Policy that complaint can be verbal or in writing; HR director and Center Director have to investigate all sexual harassment reports. Please certify all three pages.
9. Darryl Steen hand written notes on Plaintiff's Termination Review that Plaintiff had reported harassment, document #107 OR Defendant's trial exhibit #18 and #15, "Final" missing signatures.
10. Plaintiff's Record Excerpts in support of Plaintiff's Appellant Brief Tab 4 through Tab 17, all 48 pages, plus the cover page and the table of contents.
11. Plaintiff's trial exhibit #1, hand written notes for 03/05/2001, 05/05/2001, 06/10/2001 (is already certified),

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Appellant Shahla Pourgholam Second Request to receive certified original ROA Trial and additional court records. The panel had dismissed Ms. Pourgholam case and denied Appellant's Motion to Extend Time to file Appellant's Amended Petition for rehearing en banc, and then Appellant received original ROA Trial records and additional court records.

09/27/2001 the entire document and pages 4, 5, and 11. Also Plaintiff's trial record #43, Plaintiff's hand written statements on 07/11/2000, the entire document.

12. Plaintiff's EEOC file, Plaintiff's trial record #7.

13. Plaintiff's trial record #57, only Page ACG 00302.

14. Plaintiff's Trial exhibits #30 and #31 OR district court record #56, statements about sex were told in the AT&T CS&S and CPP training.

15. Plaintiff's trial exhibit #23, Plaintiff's Supervisor evaluation on 02/07/2000 all four pages.

16. Plaintiff's trial exhibit #55, Plaintiff's supervisor evaluation on 02/07/2000. This document is only one page.

17. Defendant's trial exhibit #97, Plaintiff's time punch on 06/03/2001, Darryl Steen had signed off Plaintiff on Sunday 06/03/2001 at 8:30 Pm and had never returned Plaintiff back the phone.

18. Plaintiff's trial exhibit #56 OR the district court record #107, Plaintiff's monitor call for 06/03/2001, completed by Darryl Steen, 100%.

19. Defendant's Trial record #112, Dr. Michael Tran. Main page, 08/2000, Plaintiff reported Aegis management drug trafficking and hostile work environment, medical record dated "06/05/2007" with wrong company name, and medical record on 07/31/2001.

Appellant Shahla Pourgholam Second Request to receive certified original ROA Trial and additional court records. The panel had dismissed Ms. Pourgholam case and denied Appellant's Motion to Extend Time to file Appellant's Amended Petition for rehearing en banc, and then Appellant received original ROA Trial records and additional court records.

20. Defendant's trial record #107, Dr Harvey Oshman, Main page and the record that Plaintiff was referred to him through Dr. Carson and Aegis in network insurance doctors.
21. Defendant's trial exhibit #106, Main page and the page that Dr. Carson was paid through Prudential Insurance, Aegis associated insurance company.
22. Defendant's exhibit #116, Los collinas Medical Center, about 5 minutes away from Defendant's Irving, Texas Location where Plaintiff worked. Main page and the page ACG 01337, Plaintiff's report of drug trafficking and report of acts in violation of Title VII at Defendant's Irving, Texas facility had caused Defendant's direct and/or indirect doctor and healthcare workers to "label" Ms. Pourgholam with severe mental illness.
23. Defendant's exhibit #110, North Central Medical Center. Main page, Plaintiff was transferred from Los Collinas Medical Center to North Central Medical Center, so that Aegis Direct and/or indirect insurance doctor Dr. Carson would "label" Plaintiff with various serious mental illnesses. Refused to sign is already certified.
24. Plaintiff's trial exhibit #65. Dr's Carson's note
25. Defendant's trial exhibit #115, Main page, the rape report, the doctor release noting that Plaintiff should call 911 in case of an emergency. The other medical record that Plaintiff was admitted to Psychiatric center because she had

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Appellant Shahla Pourgholam Second Request to receive certified original ROA Trial and additional court records. The panel had dismissed Ms. Pourgholam case and denied Appellant's Motion to Extend Time to file Appellant's Amended Petition for rehearing en banc, and then Appellant received original ROA Trial records and additional court records.

said that her boss was a registered sex offender in a part of Tab 17 of Plaintiff's record excerpts in support of Plaintiff's Appellant's Brief.

26. Defendant's exhibit #113, Presbyterian hospital of Dallas. Main page and the page that Plaintiff reported white powder in her check medical record dated 11/2001; just this one page and the lab work showing increased WB. Also the page that Plaintiff had reported rash on her neck and threats from Darryl Steen, received medicine for rash on her neck, total of 4 pages for this exhibit.

27. Defendant's exhibit #108, Dr Jodi Stondale, Plaintiff's Expert Witness who quit her private practice to work for Defendant's Direct and/or indirect hospital.

28. Defendant's exhibit #109, Family Place, the shelter that Plaintiff had to go to after Plaintiff's apartment had been broken into on 04/22/2002. Plaintiff was placed in the shelter because of threats from Darryl Steen and sexual harassment at Aegis. The main page the page that Dallas Police had placed Plaintiff in the shelter and the shelter had made an exception to take Plaintiff due to sexual harassment at Aegis.

29. Plaintiff's exhibit #38, as a supervisor Plaintiff had worked with her agents. Plaintiff was also required to present monitors to the agents within 24 hours and obtain agents signatures on each call that affected agent's performance. In addition, Plaintiff was rated by her agent for

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Appellant Shahla Pourgholam Second Request to receive certified original ROA Trial and additional court records. The panel had dismissed Ms. Pourgholam case and denied Appellant's Motion to Extend Time to file Appellant's Amended Petition for rehearing en banc, and then Appellant received original ROA Trial records and additional court records.

the effectiveness of feedback and coaching that Plaintiff had provided to her agent. Defendant did not require Darryl Steen with same policies toward Plaintiff.

30. Defendant's trial exhibit #39, 40, 41, 140, 141, Defendant had tampered with Darryl Steen and David Walker's records and did not provide Darryl Steen and David Walker's employee application and background check results.

31. Defendant's exhibit #101, Plaintiff's employee application with Defendant.

32. Defendant's exhibit #103 and #146, please certify all pages, Defendant had lied to the court and the jury about Plaintiff's Foley's and Manpower employment records.

33. Additional courtroom transcript page numbers 178, 195,196, 209, 210, 213, 214, 234, 247, 254, 255, 258, 259, 262, 264, 328, 378, 379, 380, 394, 398, 419, 442, 444, 446, 447, 448, 451, 452, 454, 458, 459, 460, 463. Other courtroom transcripts had been already ordered.

34. Plaintiff's courtroom testimony, per document.

35. Joint Exhibit List dated 02/22/2005 the complete list **without the wipeouts**, please certify each/all pages of this document. (The pages of this document have not been certified before the jury trial. Although the title of this document is labeled as "Joint Exhibit List", this document is in violation of the court order because it is not a joint exhibit

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Appellant Shahla Pourgholam Second Request to receive certified original ROA Trial and additional court records. The panel had dismissed Ms. Pourgholam case and denied Appellant's Motion to Extend Time to file Appellant's Amended Petition for rehearing en banc, and then Appellant received original ROA Trial records and additional court records.

list; it has Plaintiff's exhibit list and Defendant's exhibit list. In addition for the same document there are different exhibit numbers, which can cause confusion as to the facts of this case. For example, Plaintiff's hospital records and Defendant's Declaration in Support of Defendant's Motion for Summary Judgment are marked as the same exhibits. Furthermore, Declaration of David Walker, Ella Dickerson-Own, Frankie Reese, Lisa Lewis, Laveron Crawford, Darryl Steen are not labeled accurately to reflect that these Declarations were given in support of Defendant's First and Second Motions for Summary Judgment).

36. Appellant's Brief, Please certify the entire document.

37. Appellant's Motion for Panel Rehearing en banc and Rehearing en banc, Please provide a copy of the entire document.

38. Appellant's Reply Brief, entire per document.

39. Appellant Motion to extend time to received ROA Records in July 2005 and in 2006.

40. Appellant's Third Motion to Supplement the records on Appeal.

41. Please provide a certified copy of docket sheet in court of appeal.

42. Please provide a certified copy of Appellee's Brief, entire document.

Appellant Shahla Pourgholam Second Request to receive certified original ROA Trial and additional court records. The panel had dismissed Ms. Pourgholam case and denied Appellant's Motion to Extend Time to file Appellant's Amended Petition for rehearing en banc, and then Appellant received original ROA Trial records and additional court records.

43. Please provide a certified copy of each/all pages of this request to receive certified copies.

In addition, Please verify the following:

a. That beside Ms. Pourgholam, Aegis **did not** offer to the jury **the employee application of any of Aegis employees** and **their background check results**.

b. That Defendant did not offer the **employee files** of Michael Duus, Ella Dickerson-own, Mary Mullen, Joan Rowan, and Johnnie Reagler. Furthermore, Defendant did not offer the evidence of Irving police misconduct and the fact that Officer Mark Talley, the Irving Police officer that had investigated Aegis and Darryl Steen had been charged with two counts of Indecency with a child younger than 14 years of age as well as David Walker's Registered Sex Offender records and other substantial and conclusive evidences such as Aegis employees that were threatened with gun or were assaulted are missing from trial record.

c. That the exhibits and evidences that were presented to the jury at the trial of this case had included **over 2000 pages on Plaintiff** while Defendant had presented **a total of 5 pages of Darryl Steen and David walker's "Tampered"**

Appellant Shahla Pourgholam Second Request to receive certified original ROA Trial and additional court records. The panel had dismissed Ms. Pourgholam case and denied Appellant's Motion to Extend Time to file Appellant's Amended Petition for rehearing en banc, and then Appellant received original ROA Trial records and additional court records.

Prior to making certified copies, Please provide the total cost that I need to pay to you to receive certified court copies. The documents that I had asked per Page, I need each page to be certified and the ones that I had asked for entire document to be certified, I just need the document as whole to be certified. Thanks in advance and I greatly appreciate your assistance in this matter.

/s/ Shahla Pourgholam

Sincerely,
Shahla Pourgholam
Pro Se, Appellant
P O Box 824311
Dallas, Texas 75382
Email: shahlap@msn.com
Tel: 972-567-6464

Appellant Shahla Pourgholam Second Request to receive certified original ROA Trial and additional court records. The panel had dismissed Ms. Pourgholam case and denied Appellant's Motion to Extend Time to file Appellant's Amended Petition for rehearing en banc, and then Appellant received original ROA Trial records and additional court records.

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ITEM	DESCRIPTION	VOLUME /PAGE	TAB
Docket Sheet	Docket Sheet	SP-1000 to SP-1012	1
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Notice of Appeal Notice of Appeal	Filed March 25th, 2005 Field April 23rd, 2005	SP-1013 to SP-1014 SP-1015, SP-1016, SP-1017	3
Plaintiff's EEOC Discrimination Charges Continued on	EEOC Charges of Discrimination based on national origin, retaliation, sexual harassment and Co-worker harassment, hostile work environment, and retaliation for opposing unlawful	SP-1	4 TAB

the next page. Continued from previous page	acts, disparate treatment, and wrongful termination.	SP-1	4 Cont. Tab 4 Cont.
Defendant's Background Check Policy	Plaintiff's Pre-employment and Post-employment background check.	SP-77	5
Minute Entry Courtroom Transcript continued; March 21st – 24th, 2005.	Mary Mullen. She did not investigate Plaintiff's EEOC Discrimination Charges. Ella Dickerson. She did not investigate Plaintiff's EEOC Discrimination Charges.	SP-704 SP-720	6
Minute Entry Courtroom Transcript Continued;	**Ella Dickerson-Own** stated that she was **hired** by Defendant as	SP-712	7 Cont. next Page.

March 21st – 24th, 2005. Continued on the next page. Continued from previous page.	Human Resources **Generalist** and after **two years** she was promoted to Human Resources **Manager**. This is **in contrary** to the information that Defendant had produced **under oath.**	SP-712	TAB 7 Cont. Tab 7 Cont.
Records Produced Under Oath	Defendant had produced a document that shows **Ella Dickerson-Own was hired as HumanResources Manager**. In addition, Plaintiff attorney failed to refer to Ella Dickerson-Own and David Walker as Adverse Witnesses.	SP-489	TAB 7 Cont.

Records Produced Under Oath. Lisa Lewis's email on 07/06/21. Call from Trina Bitch again,	Lisa Lewis's email on 07/06/2001to David Walker, Mary Mullen, Todd Baker, and Darryl Steen. It identifies calls from "Trina Bitch" again. It Identifies Ms.	SP-56	8
Lisa Lewis hand written notes. SP-56, SP-53 and SP-54.	Pourgholam claims of discrimination and how it had affected all aspects of Plaintiff's employment for the **Month of April, May, and June, as a well as July.** It identifies Darryl Steen, once again DJ had worn revealing and exposing outfit.	SP-56	TAB 8 Cont. on the next page.
Lisa Lewis's notes continued on the next page.	It also identifies profane and racist calls that Plaintiff had been receiving	SP-56	Tab 8 Cont.
		SP-56	TAB 8 Cont.

These Records were Produced Under Oath; continued from previous page.	and requires that **ALL** monitor to be presented and **signed by Plaintiff.**	SP-56	TAB 8 Cont.
	Ms. Pourgholam received profane and racist call From "Trina Bitch" again.	SP-54	TAB 8 Cont.
Lisa Lewis's notes continued. .	Lisa Lewis's hand written notes that Plaintiff had opposed unlawful **acts in violation of Tile VII as well as acts in violation of Plaintiff's constitutional rights.**	SP-53	TAB 8 Cont.
Plaintiff as a Supervisor Continued.	**As a Supervisor** Plaintiff was required to present monitors to agents within the **same**	SP-193	9 TAB 9 Cont.

Plaintiff as a Supervisor Continued from previous page.	**day** and **Plaintiff did not** have **the authority** to retape any of agents' calls.	SP-193	TAB 9 Cont.
Records Produced Under Oath.	However, **on July 11th, 2000** Plaintiff was **demoted** from supervisor position even though Plaintiff was rated amongst top three supervisors.	SP-15, SP-197	10
Continued on the next page.	Exactly three days later, **on July 14th, 2000, Plaintiff's Supervisor Position was given to Darryl Steen a white male and a CSR** that had only been with Aegis for **3-4 months was promoted to**	SP-448	Tab 10 Cont.

Records Produced Under Oath, Continued from previous page.	**AT&T CS&S and CPP Supervisor. Darryl Steen was also a** Registered Sex Offender with Two Conviction Felonies of Sexual Assaults. Darryl Steen also was on mandatory Sex Offender Supervision Parole.	SP-448	TAB 10 Cont.
Records Produced Under Oath. Continued.	**As of June 17th, 2001** Ms. Pourgholam had the **highest** Quality Assurance Score on the team.	SP-50	11
Records Produced Under Oath. continued on the next page.	**On June 18th, 2001,** Darryl Steen Placed Ms. Pourgholam on **Final Written Warning** because	SP-199	Cont. on next page.

Records Produced Under Oath. Continued.	Ms. Pourgholam **would not sleep with him.** **Also**, Plaintiff had written a complaint letter for being exposed to DJ's **partially nude** outfit and the fact that Darryl Steen **shared his system ID** with DJ.	SP-71, SP-72, SP-475.	TAB 11 Cont.
Records Produced Under Oath. Continued on the next page.	Defendant and Darryl Steen also were not happy with the fact that Ms. Pourgholam was issuing credit to customers that were charged through AT&T for rude and **unwanted Child and Adult Porn that were popping** up on customer's	SP-242, SP-243.	TAB 11 Cont.
		SP-242, SP-243.	TAB 11 Cont.

Records Produced Under oath. Continued From previous Page.	Customer's Computer through Internet. Defendant had refused to produce a copy of these calls and never been concerned about these customer's complaints of rudeness and quality service.	SP-242, SP-243	Cont. TAB 11 Cont.
	Darryl Steen's conviction Felonies:	SP-479	TAB 11 Cont.
	(1) F80-14083-IL; Steen had oral sex with his own under age daughter, he had **placed his penis in his daughter's mouth** and had oral sex with his daughter.	SP-479	
	(2) F86-70092-LM ; while "Steen" **was on parole for the first sexual**	SP-480 SP-480	TAB 11 Cont.

Produced Under Oath continued from previous page.	**Assault he had** sodomized his stepson. **Darryl Steen's** Terms and Conditions of Parole. (Please Note Restrictions).	SP-480 SP-238, SP-239, SP-240	11 Cont.
Darryl Steen's Deposition on 12/15/2004. Defendant's attorney's denials and lies.	Darryl Steen admitted in retaping Plaintiff's call for September 26th, 2001. Defendant's attorney has refused to admit that Darryl Steen was a Registered Sex Offender.	SP-456 SP-246	12
Minute Entery courtroom Transcript continued;	Joan Rowan. She had admitted to **destroying evidence.**	**SP-733**	**13** TAB 13 Cont.

March 21st-24th, 2005. continued from the previous page. **Obstruction of Justice.**	Joan Rowan admitted that mystery caller system/QA would allow members of management to reach **a specific** agent. Joan Rowan admitted that accessing to this system from **anywhere** that a **phone was available.**	**SP732, SP-733** **SP-732**	TAB 13 Cont.
Minute Entery courtroom Transcript continued; March 21st-24th, 2005. Obstruction of Justice by Defendant	**Plaintiff's Objection.** (1) Defendant lied to the court and the jury that Rhonda Miller's call was the **original tape.** This tape was tampered with. **Either** Defendant's	**SP-728 SP-727**	14 TAB 14 Cont. On the next page.

Minute Entery Courtroom Transcript Continued March 21st-24th, 2005.	Attorneys' **were lying to** the court and the jury and/or **Defendant's witnesses** had lied in their sworn testimonies.	**SP-728, SP-727**	TAB 14 Cont.
Defendant Obstructed Justice; Continued From previous Page.	Defendant willfully and in bad faith withheld taped customer complaints about rude and destructive **Child and Adult Porn. For example Defendant withheld Patricia Edwards Call.**	**SP-242, SP-243 (TAB 11).**	TAB 14 Cont.
	(3) Defendant willfully and in bad faith withheld other Plaintiff's QA tapes and that of other CSRs in the call center.	**SP-106**	TAB 14 Cont.

Minute Entery courtroom Transcript continued; March 21st-24th, 2005.	**Plaintiff's objection.** (1) Defendant produced wrong employee records for Plaintiff	**SP-726** **SP-469** **SP-470**	15
Obstruction of Justice by Defendant	Plaintiff W-2 and records shows information in contrary. (2) Defendant did not produce employee applications of David Walker and Darryl Steen.	**SP-471,** **SP-699**	TAB 15 Cont.
Darryl Steen's Deposition on 12/15/2004.	Darryl Steen admits that Ms. Pourgholam had complained to **Ella**	SP-249	16
Darryl Steen's Deposition on 12/15/2004. **Continued.**	**Dickerson-Own, but the two had made a joke of Plaintiff's complaint.** Darryl Steen	**SP-249** **SP-241**	TAB 16 Cont.

Darryl Steen's Deposition on 12/15/2004. **Darryl Steen's Deposition on 12/15/2004.**	admits that he had told ms. Pourgholam that he would shoot her. **Darryl Steen admits that he had taken Plaintiff for One-on-One sessions in area away from other agents and in an area that no one else was there.**	**SP-241** **SP-244**	TAB 16 Cont. TAB 16 Cont
David Walker's Deposition. Continued on the next page. Records Released Under Oath.	David Walker was Vice President of Prudential Insurance. Plaintiff was admitted to Psychiatric center without any past	SP-507 SP-519 SP-522	17 TAB 17 Cont.

Continued, Records Released Under Oath.	history of **because of her national origin, religion, the fact that she reported hostile work environment and acts in violation of Title VII at Defendant's property.**	SP-519 SP-522	TAB 17 Cont.
	Plaintiff's Time Punch Record, **Darryl Steen had signed off Plaintiff on Sunday 06/03/2001, at 8:30 pm night** and had **never returned Plaintiff back to the phones.**	**SP-474**	TAB 17 Cont.
Continued on the next page.			TAB 17 Cont

Records Released Under Oath; Continued on the next page.	**Plaintiff went to Defendant's insurance doctor on 06/05/2001. However, Defendant's insurance doctor:**	**SP-514**	TAB 17 Cont.
Records Released Under Oath.	**(1)** This doctor had dated the day of visit as **"2007".** (2) Plaintiff had paid this doctor with **Aegis Insurance** card, but the doctor had misrecorded that Plaintiff's employer at the time as **SBC.**	**SP-514**	TAB 17 Cont.
	Defendant's insurance doctor had misdiagnosed two other patients that led to their deaths. This doctor mistaken **sinus head ach for brain tumor.**	**SP-517**	TAB 17 Cont.

Records Released Under Oath; Continued on the next page.	Defendant's other direct or indirect doctor did not renew his license because he thought he did not have to and had been sued for malpractice.	**SP-512**	TAB 17 Cont.
Records Released Under Oath.	Plaintiff also was called delusional for stating that her **former boss had threatened to shoot her and he was a Registered Sex Offender.**	**SP-512** **SP-509** **SP-509**	TAB 17 Cont.

(3)

No. 05-1474

FILED
OCT 27 2006
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In The

Supreme Court of the United States

SHAHLA POURGHOLAM,

Petitioner,

v.

ADVANCED TELEMARKETING CORP., d/b/a AEGIS COMMUNICATIONS GROUP INC,

Respondent.

On Petition for Rehearing for a Writ of Certiorari to the United States Court of Appeals For the Fifth Circuit

PETITION FOR REHEARING FOR A WRIT OF CERTIORARI

SHAHLA POURGHOLAM
PRO SE PETITIONER
P O BOX 824311
DALLAS, TX 75382
shahlap@msn.com

OCTOBER 2006

LIST OF PARTIES

PRTITIONER:
Shahla Pourgholam, Pro Se Petitioner, Appellant.

RESPONDENT:
Advanced Telemarketing Corp., d/b/a Aegis Communications Group, Inc.,

Alisa L. Pittman, Attorney for Respondent/Appellee
Advanced Telemarketing Group d/b/a Aegis Communications Group, Inc.

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Each/all anti Child and Adult Porn laws passed by U.S. Congress and signed by President Bush.

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Aegis Policy about pay cut.....
Aegis Union free incentives

AEGIS SUPERVISOR "DARRYL STEEN'S" REGISTERED SEX OFFENDER TERMS AND CONDITIONS OF PAROLE

As a condition of his parole Darryl Steen was not to go in, on, or about **where** children commonly gather**, nor shall he supervise** or participate in any program that includes as

participants persons who are 17 years of age or younger Darryl Steen is not to **possess,** or to cause to **be purchased or** subscribed to, any literature, or videotapes **which** depict sexually explicit images, nude or partially nude people, **nor communicate or cause to communicate with a person for sexually explicit purposes through telecommunications or any other electronic means, including 1-900 services.**

Darryl Steen is not to cause to communicate with a person nude or partially nude **people.**

As a condition of his Parole Darryl Steen is not to own, posses, use, prohibited weapon or illegal weapon nor attempt or threaten to use any tool, implement **or object to** cause or threaten to cause any bodily injury.

As a condition of his Parole Darryl Steen is not to associate with persons of criminal background.

Darryl Steen was under mandatory Sex Offender Supervision and had to adhere to curfew **specified by his supervising parole officer.**

As a condition of his parole Darryl Steen is assigned to the highest level of supervision caseload.

As a condition of his parole, Darryl Steen is to be electronically monitored as approved by release's supervising parole officer that **Darryl Steen is not to participate in any**

volunteer or volunteer any services **without prior Board Panel approval.**

In paragraph 13 of his parole conditions, Darryl Steen as not to operate a motor vehicle unless specifically authorized by his supervising parole officer. Darryl Steen had three cars an economy size metallic blue economy car, a light yellow with wooden pattern brown stripe American made station wagon car, and a white van.

OPINION OF THE SUPREME COURT OF THE UNITED STATES

On 10/02/2006 Supreme Court of the United States denied Ms. Pourgholam Petition for a Writ of Certiorari.

OPINION BELOW

The opinion of the United States Court of Appeals for the Fifth Circuit that gives rise to this Petition has been designated for limited publication or is unpublished, please see Pet. APP. One. Pages D-10 to D-11 in support of Ms. Pourgholam Petition for a Writ of Certiorari. **This is despite the fact that the Court of Appeals for the Fifth Circuit in Schweitzer v. Advanced Telemarketing** did not hold that the jury had favored Schweitzer, **but over turned the Jury's Verdict** and granted Advanced Telemarketing d/b/a Aegis Communications Group **a new trial** because the jury's verdict was against Aegis and the jury had awarded attorney's fees to Schweitzer. **On return with special instructions, Schweitzer lost her lawsuit and her case of age discrimination was dismissed; Please see Pet. APP. Two. R-52. Aegis also have had 10 other discrimination lawsuits, each and everyone of the discrimination lawsuits against Aegis has been dismissed in Federal Court for the Fifth Circuit, please see Pet APP Two. Page R-52.**

STATEMENT OF JURISDICTION

The date on which the United States Court of Appeals for the Fifth Circuit decided my case was on February 7th, 2006. Appellant's Petition for Panel Rehearing was postmark on February 21st, 2006. Appellant's case was dismissed because the court had quoted Defendant's assertion that the court and the jury **had favored** Defendant. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). In accordance with Supreme Court Rule 13.1, Ms. Pourgholam Petition for a Writ of Certiorari had been filed within 90 days. On October 2nd, 2006 the Supreme Court of the United States denied Ms. Pourgholam Petition for a Writ of Certiorari. In conformance with Rule 44 of the United States Supreme Court, this Petition for Rehearing for a Writ of Certiorari is filed within 25 days of the entry of the Supreme Court of the United States decision.

REASONS FOR GRANTING THE WRIT, STATEMENT OF THE CASE, STATEMENTS OF GENUINE ISSUES OF MATERIAL FACTS, ARGUMENTS, AND AUTHORITIES

It is central to due process that the courts and agencies must consider relevant evidences.[1] The Fifth

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[1] [See United States Constitution, Amendment IV and V; *Saunders v. Shaw*, 244 U.S. 317 (1917); Administrative Procedure Act ("APA"), Section 702, Section 703, Section 704, Section 706, Section 706 (1); Section 706 (2)(A)(C)(D)(E)(F); U.S.C. § 706 (2000), APA § 554(c), 5 U.S.C. § 554 (c) (2000); APA § 706 (2)(A), 5 U.S.C. § 706 (2)(A)(2000);

Amendment to the United States Constitution states in relevant part:

No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

The lead case interpreting the APA, requires that reviewing courts consider the *entire record* when determine whether the courts findings of fact are based on substantial evidence, "the court may not scour the record to find its own basis for decision." APA § 706 (2) (A), 5 U.S.C. § 706 (2)(A)(2000), the decisions must be reasoned and not arbitrary or capricious. **The court does not do its duty** when it merely decides upon a poor record; the panel should not dismiss this case on the false basis that there is no record, and the reviewing panel cannot supply a basis for a decision without specific references to the record.[2]

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the court shall give all interested parties opportunity for – (1) the submission and consideration of facts; *Universal Camera Corp. v. NLRB*, 340 U.S. 474 (1951)].

[2] [*Isbrandtsen Co. v. United States*, 96 F. Supp. 883, 892, (S.D.N.Y. 1951); Since the matters of this case involve violations of State and Federal TCHRA and Title VII, as amended, human rights, Constitutional Rights, State and Federal laws, FCC and FTC Rules and Regulations, Child and Adult Porn, threats with gun and assaults, pregnant employees that had forced abortions or were sent to Psychiatric Centers while working for Aegis and Aegis client(s), false advertisement, Obstruction of Justice and Perjury, and the fact that the relief is available; it would be appropriate for this court to grant Ms. Pourgholam Petition for A Writ of Certiorari so that the case can be totally reviewed with substantial and conclusive evidences; [Petition for A Writ of Certiorari, Pages1-30; Pet. App II, K - V; Appellant Brief, Pages 1-30; Appellant Reply Brief, Pages 1-15; and Appellant's Petition for Rehearing en banc, Pages 1-14; *Walter Fuller Aircraft v. Rep of Philippines*, 965 F.2d 1375,

The United States Supreme Court held in *Moses H. Cone Mem. Hosp v. Mercury Constr. Corp.*, 460 U.S. 1 (1983), that a case is immediately appealable as a final decision when the order terminates the case from federal district court. As explained, the order(s) appealed from conclusively determines the disputed question. Furthermore, Ms. Pourgholam appeal "resolves an important issue completely separate from the merits of the action." *Coopers*, 437 U.S. 468. "**An order that amounts to a refusal to adjudicate the merits plainly presents an important issue separate from the merits.**" *Moses H. Cone*, 460 U.S. at 12. In the present case the review of the orders of the district court had been roadblock to dismissal of the case and final judgment. *Moses H. Cone*, 460 U.S. at 12 n. 13. The court's orders present an important issue completely separate from the merits of Plaintiff's claims. In addition, denial of immediate review would render impossible any review whatsoever.[3]

It is also important to note that in this case opposing counsel had made improper and inflammatory arguments in front of the jury in bad faith. This court has the power to grant a review of this case based on its appraisal of the

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1380 (5th Cir. 1992); *Moses H. Cone Mem. Hosp v. Mercury Constr. Corp.*, 460 U.S. 1 (1983)].

3 [*Hines v. Artois*, 513 F.2d 726, 730 (5th Cir. 1976); *United States v. Garner*, 749 F.2d 281, 288 n.8 (5th Cir. 1985); *Cooper & Lybrand v. Livesay*, 437 U.S. 463, 468 (1978); *Firestone Tire& Rubber Co. v. Risjord*, 449 U.S. 368, 376 (1981); *Firestone*, 449 U.S. at 376; *Johnson v. Ford Motor Co.*, 988 F.2d 573, 582 (5th Cir. 1993)].

fairness of the trial and reliability of the jury's verdict.[4] *Williston basin Interstate pipeline Co. v. FERC*, 165 F. 3d 54 (D.C. Cir. 1999) holds that where there is an exceptional situational or policy change the change must be applied to existing cases. The essence of Williston is that a remand is required where the court changes the basis for its decision because the decision-making cannot be arbitrary.[5]

Accordingly, Plaintiff meets her burden of *prima facie case and Defendant's pretextual reasons* for discriminating against Plaintiff in violation of Title VII because in the instant case Plaintiff had established prima facie case and presented evidences that Defendant's reasons were a pretext for unlawful discrimination. Plaintiff had established that (a) Plaintiff was member of protected class(es); (b) Plaintiff was clearly qualified for her position; (c) Plaintiff was wrongfully and/or constructively discharged, demoted, and denied promotion; (d) after Darryl Steen had

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4 [Texas Criminal Code of Procedure, Article, 42.12, Texas Penal Code Chapter, 7, 20, 21, 22; prejudicial and incurable argument – J - § 4, § 5, and § 6; USCA 18 § 1503 and 1623; Relevant Portions of Texas Code of Criminal Procedure, Article 21.14(a) – Perjury and aggravated Perjury before a grand jury is unlawful; *Gray v. Bicknell*. 86 F.3d 1472, 1480, (8th Cir. 1996); *Smith v. Transworld Drilling Co.*, 773 F.2d 610, 612-613 (5th Cir. 1985); *Ruvalcaba v. City of Los Angeles*. 64 F.3d 1323, 1328, (9th Cir. 1996)].

5 [*Williston basin Interstate pipeline Co. v. FERC*, 165 f. 3d 54 (D.C. Cir. 1999); The Court of Appeals for the Fifth Circuit in Schweitzer v. Advanced Telemarketing did not hold that the jury had favored Schweitzer, but over turned the Jury's Verdict and granted Advanced Telemarketing d/b/a Aegis Communications Group a new trial because the jury's verdict was against Aegis and the jury had awarded attorney's fees to Schweitzer. On return with special instructions, Schweitzer lost her lawsuit and her case of age discrimination was dismissed].

Terminated Plaintiff, Defendant had never disclosed and failed to submit in Defendant's First and Second Motions for Summary Judgment and at the trial of this case that the person that Defendant had hired to replace Ms. Pourgholam was an Iranian female. (Defendant acted in a manner to indicate that the decisions made against Ms. Pourgholam were based on her national origin).

Furthermore, Defendant obstructed justice and defamed Plaintiff's character because Defendant took advantage of Defendant's Motion in Limine **to eliminate** evidences from the federal grand jury.[6] Thus, Plaintiff had established that: (a) Defendant acted intentionally or recklessly toward Plaintiff; (b) Defendant's conduct was extreme and outrageous; (c) Defendant's actions caused Plaintiff severe emotional distress; (d) the emotional distress suffered by Plaintiff was severe. **Therefore, Plaintiff meets her burden to show *severe Intentional Infliction of Emotional Distress.***[7]

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[6] [R. #171, Order on 03/18/2005, Second Page, Paragraph (1), (2), (3), (4), and (5); Benners v. Blanks Color Imaging, Inc., S.W.3d-, 2004 WL 937902, at * __ (Tex. App.-Dallas May 2, 2004) (no pet.h.).

[7] [In addition, in Defendant's Appellee's Brief, Defendant asserts, and/or applies, and/or confirms Plaintiff's claim that Defendant's direct and/or indirect associated hospitals; doctors, healthcare workers, and expert witness had misdiagnosed Plaintiff. [Appellee's Brief, Page 39; 52] As such, Defendant's conduct is sanctionable for publicly defaming Plaintiff's character in the presence of the court and in the presence of the jury. Defendant's defenses were false; Defendant had argued that Plaintiff did not have marks on her neck when she went to emergency room. [Appellee's Brief Page 44]. Plaintiff was prescribed medication for rash (marks) that were on Plaintiff's neck during this same visit. [Defendant's Trial Exhibit #113, Emergency Room visit on 02/13/02, doctor's instruction and medications prescribed, specifically shows medication for rash (marks on Plaintiff's neck); Similarly, on

Daubert, provides the analytical framework for determine whether expert testimony is reliable, relevant, and admissible under rule 701, 702, 703, 704, 705, and 706 of the Federal Rules of Evidence. *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 592-593, 579, 113 s. Ct. 2786, 125 L. Ed. 2d 469 (1993). The Court erred in not striking and excluding Defendant's Expert Witness after Defendant's attorney Alisa Pittman on Direct Examination of Dr./Mr. Kay Hale lied to the jury that Dr./Mr. Kay Hale had never met and never had any relationship with Defendant's Law Firm.[8] If Defendant's

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Sunday 06/03/2001 at 8:30 pm at night, Darryl Steen had signed off Plaintiff and took Plaintiff to Secured Quality Room for One-On-One session in an area that no one else was there and never return Plaintiff back to the phones. [Appellant's USCA Record Excerpts Tab 16, Pages SP-249, SP-241, SP-244, Particularly Page SP-244; Tab 17, Pages SP-474, SP-514]. On 06/05/2001, Dr. Michael Tran, Defendant's in network doctor had checked Plaintiff and misrecorded the date of the visit as "06/05/2007" and misreported the name of the company as "SBC", and misdiagnosed Plaintiff as psychosomatic. [Appellant's USCA Record Excerpts Tab 17, Page SP-514]. However, Dr. Tran in his deposition had said that the Plaintiff's painful vaginal bleeding on 07/31/2001 was due to prolonged antibiotics. [Plaintiff's Appendix in Support of R. #166]. As such Defendant's argument that Plaintiff was paranoid with psychotic features is untrue. [Appellee Brief, Page 43].

[8] [Court room transcript Page 398, lines 18-20; TR Page 419, lines 7-10 and 20-21. district court's docket record # 58 in November 8th, 2002, Defendant's designation of Dr./Mr./Kay Hale; TR Page 69, line 11, Defendant's attorney's opening statement; TR 502, lines 6-9, Defendant's attorney's closing statement which both are quoting Mr./Dr. Kay Hale's biased diagnoses to mislead the federal court and the federal grand jury; Whether an expert's testimony is reliable is a fact-specific inquiry; *Skidmore v. Precision Printing and Pkg., Inc.*, 188 F. 3d 606, 618 (5th Cir. 1999); *Kumbo Tires Co. v. Carmichael.*, 526 U.S. 137, 147, 152, 0119 S. Ct. 1167, 143 L. Ed. 2d. 238 (1999); Bocanegra v. Vicmar Serv., Inc., 320 F. 3d 581, 584 (5th Cir. 2003); *Moore v. Ashland chem., Inc.*, 151 F. 3d.269, 279 (5th Cir. 1998); *Pipiton v. Biomatrix., Inc.*, 288 F. 3d,

Expert Witness would lie and mislead the jury about this known fact than the federal district court and the federal grand jury could not rely on him to give an unbiased evaluation of Ms. Pourgholam and to help the trier of the fact(s) to understand the evidences in this case[9]

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243 (5th Cir. 2002);Dr./Mr. Kay Hale's] hypothesis, theory, and report was invalid and the district court erred in not striking and excluding Dr./Mr. Kay Hale's expert testimony for lack of sufficient grounding because his testimony did not offer accurate and significant statistical link between discrimination, hostile work environment, and severe intentional affliction of emotional distress on Ms. Pourgholam; Defendant's Trial Record Exhibit # 104, Mr./Dr./Kay Hale's report was invalid].

[9] *SEC v. Chenery Corp.*, 318 U.S. 80 (1943); *Burlington Truck lines v. United States*, 371 U.S. 156 (1962); *Motor Vechicle Mfrs. Assn v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983); the Panel's decision is contrary to existing laws, in contrary to the United States Supreme Court's precedent, in conflict with the decision of the other courts as well as Fifth circuit court's decisions, and is substantially disproved by the record; a most basic tenet of administrative law is that courts speak through their decisions; the ambiguity in the order requires remand, and the courts should not presume. When the court's decision is in error, it is **the duty of the court to review, reverse, and remand so that the court can correct the errors, and not to decide it. In this case, there were reports of assaults at Aegis Irving, TX facility, there had been Officer Mark Talley's misconduct in investigating Aegis and Plaintiff's Direct Supervisor "Steen"; Officer Mark Talley's two court of indecency with a Child; Irving Police Officer's Miller use of Excessive force against a Hispanic man during a traffic stop, David Walker 's Registered Sex Offender information; and Aegis failure to investigate and take any action against "Steen" after receiving Plaintiff's EEOC complaint and while Aegis knew that had hired Steen in violation of his Parole; Please see Appendix I and II in support of Petition for a Writ of Certiorari; Pet. App. II; K, L, M, N, O, P, Q, R, S, T, U, V].**

CONCLUSION AND PRAYER

The Court should grant this petition and directly address the implementation of TCHRA and Title VII as well as Advanced Telemarketing d/b/a Aegis Communication Inc Acts of Obstruction of Justice and Perjury, and each/all Anti Child and Adult Porn as passed by United States Congress and signed by President George W. Bush.

This Court should clarify the decision of Federal Court in Enron, MCI World Com, Martha Stewart, President Bush's administration and senior members of Republican Party and other cases of conviction of individuals and corporations for Obstruction of Justice **while not convicting Advance Telemarketing Corp d/b/a Aegis Communications Group for charges of Obstruction of Justice and Perjury**.

This Court should also clarify the reason for treating Ms. Pourgholam TCHRA and Title VII case differently then that of Sheila White and Reeve cases. The Court should also clarify the reason for applying standards of Summary Judgment and Final Judgment are different in Ms. Pourgholam case then that applied in other cases including but not limited to Cleotex. Corp case.

Respectfully Submitted,

/s/ Shahla Pourgholam

SHAHLA POURGHOLAM
Pro Se, Petitioner
P O Box 824311
Dallas, TX 75382

OCTOBER 2006

(3)

No. 05-1474

FILED
OCT 27 2006
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In The

Supreme Court of the United States

SHAHLA POURGHOLAM,

Petitioner,

v.

ADVANCED TELEMARKETING CORP., d/b/a AEGIS COMMUNICATIONS GROUP INC,

Respondent.

On Petition for Rehearing for a Writ of Certiorari to the United States Court of Appeals For the Fifth Circuit

PETITION FOR REHEARING FOR A WRIT OF CERTIORARI

SHAHLA POURGHOLAM
PRO SE PETITIONER
P O BOX 824311
DALLAS, TX 75382
shahlap@msn.com

OCTOBER 2006

LIST OF PARTIES

PRTITIONER:
Shahla Pourgholam, Pro Se Petitioner, Appellant.

RESPONDENT:
Advanced Telemarketing Corp., d/b/a Aegis Communications Group, Inc.,

Alisa L. Pittman, Attorney for Respondent/Appellee
Advanced Telemarketing Group d/b/a Aegis Communications Group, Inc.

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§ 508.187 –62.102

OTHER AUTHORITIES

Relevant Portions of Texas Code of Criminal Procedure § 7 – § 7.01 (a), § 7.01 (b), § 7.01 (c)
Relevant Portions of Texas Code of Criminal Procedure § 7.02, § 7.02 (a)(2), § 7.02 (a)(3); § 7.02 (b)
Relevant Portions of Texas Code of Criminal Procedure, Article 42.12
Relevant Portions of Texas Code of Criminal Procedure, Article 21.14(a)
Relevant Portions of Texas Penal Code 20.02
Relevant Portions of Texas Penal Code 20.04(a)(4) Relevant Portions of Texas Penal Code, Chapter 21

Relevant Portions of Texas Penal Code, Chapter 22
Relevant Portions of Texas Penal Code 30.02
Relevant Portions of Texas Penal Code 43.26
Tampering with evidence; Destruction of Evidence

AEGIS POLICIES AND PROCEDURES

Aegis Employment Policy requirement to complete **Employee Application as Pre-employment and Post-Employment condition** with Aegis (it asks if applicant have had criminal background) Aegis employee Policy requirement to process **background check result** before hiring applicants..... **Aegis Policy to Hire Children Younger than 17 years old, Sixteen years old**
Aegis Policy for use of ID Aegis EEO Policy to treat employees your like son, daughter, spouse, etc..... Aegis at Will Policy
Aegis Policy about pay cut.....
Aegis Union free incentives

AEGIS SUPERVISOR "DARRYL STEEN'S" REGISTERED SEX OFFENDER TERMS AND CONDITIONS OF PAROLE

As a condition of his parole Darryl Steen was not to go in, on, or about **where** children commonly gather**, nor shall he supervise** or participate in any program that includes as

participants persons who are 17 years of age or younger Darryl Steen is not to **possess,** or to cause to **be purchased or** subscribed to, any literature, or videotapes **which** depict sexually explicit images, nude or partially nude people, **nor communicate or cause to communicate with a person for sexually explicit purposes through telecommunications or any other electronic means, including 1-900 services.**

Darryl Steen is not to cause to communicate with a person nude or partially nude **people.**

As a condition of his Parole Darryl Steen is not to own, posses, use, prohibited weapon or illegal weapon nor attempt or threaten to use any tool, implement **or object to** cause or threaten to cause any bodily injury.

As a condition of his Parole Darryl Steen is not to associate with persons of criminal background.

Darryl Steen was under mandatory Sex Offender Supervision and had to adhere to curfew **specified by his supervising parole officer.**

As a condition of his parole Darryl Steen is assigned to the highest level of supervision caseload.

As a condition of his parole, Darryl Steen is to be electronically monitored as approved by release's supervising parole officer that **Darryl Steen is not to participate in any**

volunteer or volunteer any services **without prior Board Panel approval.**

In paragraph 13 of his parole conditions, Darryl Steen as not to operate a motor vehicle unless specifically authorized by his supervising parole officer. Darryl Steen had three cars an economy size metallic blue economy car, a light yellow with wooden pattern brown stripe American made station wagon car, and a white van.

OPINION OF THE SUPREME COURT OF THE UNITED STATES

On 10/02/2006 Supreme Court of the United States denied Ms. Pourgholam Petition for a Writ of Certiorari.

OPINION BELOW

The opinion of the United States Court of Appeals for the Fifth Circuit that gives rise to this Petition has been designated for limited publication or is unpublished, please see Pet. APP. One. Pages D-10 to D-11 in support of Ms. Pourgholam Petition for a Writ of Certiorari. **This is despite the fact that the Court of Appeals for the Fifth Circuit in Schweitzer v. Advanced Telemarketing** did not hold that the jury had favored Schweitzer, **but over turned the Jury's Verdict** and granted Advanced Telemarketing d/b/a Aegis Communications Group **a new trial** because the jury's verdict was against Aegis and the jury had awarded attorney's fees to Schweitzer. **On return with special instructions, Schweitzer lost her lawsuit and her case of age discrimination was dismissed; Please see Pet. APP. Two. R-52. Aegis also have had 10 other discrimination lawsuits, each and everyone of the discrimination lawsuits against Aegis has been dismissed in Federal Court for the Fifth Circuit, please see Pet APP Two. Page R-52.**

STATEMENT OF JURISDICTION

The date on which the United States Court of Appeals for the Fifth Circuit decided my case was on February 7th, 2006. Appellant's Petition for Panel Rehearing was postmark on February 21st, 2006. Appellant's case was dismissed because the court had quoted Defendant's assertion that the court and the jury **had favored** Defendant. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). In accordance with Supreme Court Rule 13.1, Ms. Pourgholam Petition for a Writ of Certiorari had been filed within 90 days. On October 2nd, 2006 the Supreme Court of the United States denied Ms. Pourgholam Petition for a Writ of Certiorari. In conformance with Rule 44 of the United States Supreme Court, this Petition for Rehearing for a Writ of Certiorari is filed within 25 days of the entry of the Supreme Court of the United States decision.

REASONS FOR GRANTING THE WRIT, STATEMENT OF THE CASE, STATEMENTS OF GENUINE ISSUES OF MATERIAL FACTS, ARGUMENTS, AND AUTHORITIES

It is central to due process that the courts and agencies must consider relevant evidences.[1] The Fifth

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[1] [See United States Constitution, Amendment IV and V; *Saunders v. Shaw*, 244 U.S. 317 (1917); Administrative Procedure Act ("APA"), Section 702, Section 703, Section 704, Section 706, Section 706 (1); Section 706 (2)(A)(C)(D)(E)(F); U.S.C. § 706 (2000), APA § 554(c), 5 U.S.C. § 554 (c) (2000); APA § 706 (2)(A), 5 U.S.C. § 706 (2)(A)(2000);

Amendment to the United States Constitution states in relevant part:

No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

The lead case interpreting the APA, requires that reviewing courts consider the *entire record* when determine whether the courts findings of fact are based on substantial evidence, "the court may not scour the record to find its own basis for decision." APA § 706 (2) (A), 5 U.S.C. § 706 (2)(A)(2000), the decisions must be reasoned and not arbitrary or capricious. **The court does not do its duty** when it merely decides upon a poor record; the panel should not dismiss this case on the false basis that there is no record, and the reviewing panel cannot supply a basis for a decision without specific references to the record.[2]

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the court shall give all interested parties opportunity for – (1) the submission and consideration of facts; *Universal Camera Corp. v. NLRB,* 340 U.S. 474 (1951)].

[2] [*Isbrandtsen Co. v. United States*, 96 F. Supp. 883, 892, (S.D.N.Y. 1951); Since the matters of this case involve violations of State and Federal TCHRA and Title VII, as amended, human rights, Constitutional Rights, State and Federal laws, FCC and FTC Rules and Regulations, Child and Adult Porn, threats with gun and assaults, pregnant employees that had forced abortions or were sent to Psychiatric Centers while working for Aegis and Aegis client(s), false advertisement, Obstruction of Justice and Perjury, and the fact that the relief is available; it would be appropriate for this court to grant Ms. Pourgholam Petition for A Writ of Certiorari so that the case can be totally reviewed with substantial and conclusive evidences; [Petition for A Writ of Certiorari, Pages1-30; Pet. App II, K - V; Appellant Brief, Pages 1-30; Appellant Reply Brief, Pages 1-15; and Appellant's Petition for Rehearing en banc, Pages 1-14; *Walter Fuller Aircraft v. Rep of Philippines,* 965 F.2d 1375,

The United States Supreme Court held in *Moses H. Cone Mem. Hosp v. Mercury Constr. Corp.*, 460 U.S. 1 (1983), that a case is immediately appealable as a final decision when the order terminates the case from federal district court. As explained, the order(s) appealed from conclusively determines the disputed question. Furthermore, Ms. Pourgholam appeal "resolves an important issue completely separate from the merits of the action." *Coopers*, 437 U.S. 468. **"An order that amounts to a refusal to adjudicate the merits plainly presents an important issue separate from the merits."** *Moses H. Cone*, 460 U.S. at 12. In the present case the review of the orders of the district court had been roadblock to dismissal of the case and final judgment. *Moses H. Cone*, 460 U.S. at 12 n. 13. The court's orders present an important issue completely separate from the merits of Plaintiff's claims. In addition, denial of immediate review would render impossible any review whatsoever.[3]

It is also important to note that in this case opposing counsel had made improper and inflammatory arguments in front of the jury in bad faith. This court has the power to grant a review of this case based on its appraisal of the

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1380 (5th Cir. 1992); *Moses H. Cone Mem. Hosp v. Mercury Constr. Corp.*, 460 U.S. 1 (1983)].

3 [*Hines v. Artois*, 513 F.2d 726, 730 (5th Cir. 1976); *United States v. Garner*, 749 F.2d 281, 288 n.8 (5th Cir. 1985); *Cooper & Lybrand v. Livesay*, 437 U.S. 463, 468 (1978); *Firestone Tire& Rubber Co. v. Risjord*, 449 U.S. 368, 376 (1981); *Firestone*, 449 U.S. at 376; *Johnson v. Ford Motor Co.*, 988 F.2d 573, 582 (5th Cir. 1993)].

fairness of the trial and reliability of the jury's verdict.[4] *Williston basin Interstate pipeline Co. v. FERC*, 165 F. 3d 54 (D.C. Cir. 1999) holds that where there is an exceptional situational or policy change the change must be applied to existing cases. The essence of Williston is that a remand is required where the court changes the basis for its decision because the decision-making cannot be arbitrary.[5]

Accordingly, Plaintiff meets her burden of *prima facie case and Defendant's pretextual reasons* for discriminating against Plaintiff in violation of Title VII because in the instant case Plaintiff had established prima facie case and presented evidences that Defendant's reasons were a pretext for unlawful discrimination. Plaintiff had established that (a) Plaintiff was member of protected class(es); (b) Plaintiff was clearly qualified for her position; (c) Plaintiff was wrongfully and/or constructively discharged, demoted, and denied promotion; (d) after Darryl Steen had

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4 [Texas Criminal Code of Procedure, Article, 42.12, Texas Penal Code Chapter, 7, 20, 21, 22; prejudicial and incurable argument – J - § 4, § 5, and § 6; USCA 18 § 1503 and 1623; Relevant Portions of Texas Code of Criminal Procedure, Article 21.14(a) – Perjury and aggravated Perjury before a grand jury is unlawful; *Gray v. Bicknell*. 86 F.3d 1472, 1480, (8th Cir. 1996); *Smith v. Transworld Drilling Co.*, 773 F.2d 610, 612-613 (5th Cir. 1985); *Ruvalcaba v. City of Los Angeles*. 64 F.3d 1323, 1328, (9th Cir. 1996)].

5 [*Williston basin Interstate pipeline Co. v. FERC*, 165 f. 3d 54 (D.C. Cir. 1999); The Court of Appeals for the Fifth Circuit in Schweitzer v. Advanced Telemarketing did not hold that the jury had favored Schweitzer, but over turned the Jury's Verdict and granted Advanced Telemarketing d/b/a Aegis Communications Group a new trial because the jury's verdict was against Aegis and the jury had awarded attorney's fees to Schweitzer. On return with special instructions, Schweitzer lost her lawsuit and her case of age discrimination was dismissed].

Terminated Plaintiff, Defendant had never disclosed and failed to submit in Defendant's First and Second Motions for Summary Judgment and at the trial of this case that the person that Defendant had hired to replace Ms. Pourgholam was an Iranian female. (Defendant acted in a manner to indicate that the decisions made against Ms. Pourgholam were based on her national origin).

Furthermore, Defendant obstructed justice and defamed Plaintiff's character because Defendant took advantage of Defendant's Motion in Limine **to eliminate** evidences from the federal grand jury.[6] Thus, Plaintiff had established that: (a) Defendant acted intentionally or recklessly toward Plaintiff; (b) Defendant's conduct was extreme and outrageous; (c) Defendant's actions caused Plaintiff severe emotional distress; (d) the emotional distress suffered by Plaintiff was severe. **Therefore, Plaintiff meets her burden to show *severe Intentional Infliction of Emotional Distress.***[7]

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[6] [R. #171, Order on 03/18/2005, Second Page, Paragraph (1), (2), (3), (4), and (5); Benners v. Blanks Color Imaging, Inc., S.W.3d-, 2004 WL 937902, at * __ (Tex. App.-Dallas May 2, 2004) (no pet.h.).

[7] [In addition, in Defendant's Appellee's Brief, Defendant asserts, and/or applies, and/or confirms Plaintiff's claim that Defendant's direct and/or indirect associated hospitals; doctors, healthcare workers, and expert witness had misdiagnosed Plaintiff. [Appellee's Brief, Page 39; 52] As such, Defendant's conduct is sanctionable for publicly defaming Plaintiff's character in the presence of the court and in the presence of the jury. Defendant's defenses were false; Defendant had argued that Plaintiff did not have marks on her neck when she went to emergency room. [Appellee's Brief Page 44]. Plaintiff was prescribed medication for rash (marks) that were on Plaintiff's neck during this same visit. [Defendant's Trial Exhibit #113, Emergency Room visit on 02/13/02, doctor's instruction and medications prescribed, specifically shows medication for rash (marks on Plaintiff's neck); Similarly, on

Daubert, provides the analytical framework for determine whether expert testimony is reliable, relevant, and admissible under rule 701, 702, 703, 704, 705, and 706 of the Federal Rules of Evidence. *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 592-593, 579, 113 s. Ct. 2786, 125 L. Ed. 2d 469 (1993). The Court erred in not striking and excluding Defendant's Expert Witness after Defendant's attorney Alisa Pittman on Direct Examination of Dr./Mr. Kay Hale lied to the jury that Dr./Mr. Kay Hale had never met and never had any relationship with Defendant's Law Firm.[8] If Defendant's

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Sunday 06/03/2001 at 8:30 pm at night, Darryl Steen had signed off Plaintiff and took Plaintiff to Secured Quality Room for One-On-One session in an area that no one else was there and never return Plaintiff back to the phones. [Appellant's USCA Record Excerpts Tab 16, Pages SP-249, SP-241, SP-244, Particularly Page SP-244; Tab 17, Pages SP-474, SP-514]. On 06/05/2001, Dr. Michael Tran, Defendant's in network doctor had checked Plaintiff and misrecorded the date of the visit as "06/05/2007" and misreported the name of the company as "SBC", and misdiagnosed Plaintiff as psychosomatic. [Appellant's USCA Record Excerpts Tab 17, Page SP-514]. However, Dr. Tran in his deposition had said that the Plaintiff's painful vaginal bleeding on 07/31/2001 was due to prolonged antibiotics. [Plaintiff's Appendix in Support of R. #166]. As such Defendant's argument that Plaintiff was paranoid with psychotic features is untrue. [Appellee Brief, Page 43].

[8] [Court room transcript Page 398, lines 18-20; TR Page 419, lines 7-10 and 20-21. district court's docket record # 58 in November 8th, 2002, Defendant's designation of Dr./Mr./Kay Hale; TR Page 69, line 11, Defendant's attorney's opening statement; TR 502, lines 6-9, Defendant's attorney's closing statement which both are quoting Mr./Dr. Kay Hale's biased diagnoses to mislead the federal court and the federal grand jury; Whether an expert's testimony is reliable is a fact-specific inquiry; *Skidmore v. Precision Printing and Pkg., Inc.*, 188 F. 3d 606, 618 (5th Cir. 1999); *Kumbo Tires Co. v. Carmichael.*, 526 U.S. 137, 147, 152, 0119 S. Ct. 1167, 143 L. Ed. 2d. 238 (1999); Bocanegra v. Vicmar Serv., Inc., 320 F. 3d 581, 584 (5th Cir. 2003); *Moore v. Ashland chem., Inc.*, 151 F. 3d.269, 279 (5th Cir. 1998); *Pipiton v. Biomatrix., Inc.*, 288 F. 3d,

Expert Witness would lie and mislead the jury about this known fact than the federal district court and the federal grand jury could not rely on him to give an unbiased evaluation of Ms. Pourgholam and to help the trier of the fact(s) to understand the evidences in this case[9]

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243 (5th Cir. 2002);Dr./Mr. Kay Hale's] hypothesis, theory, and report was invalid and the district court erred in not striking and excluding Dr./Mr. Kay Hale's expert testimony for lack of sufficient grounding because his testimony did not offer accurate and significant statistical link between discrimination, hostile work environment, and severe intentional affliction of emotional distress on Ms. Pourgholam; Defendant's Trial Record Exhibit # 104, Mr./Dr./Kay Hale's report was invalid].

[9] *SEC v. Chenery Corp.*, 318 U.S. 80 (1943); *Burlington Truck lines v. United States*, 371 U.S. 156 (1962); *Motor Vechicle Mfrs. Assn v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983); the Panel's decision is contrary to existing laws, in contrary to the United States Supreme Court's precedent, in conflict with the decision of the other courts as well as Fifth circuit court's decisions, and is substantially disproved by the record; a most basic tenet of administrative law is that courts speak through their decisions; the ambiguity in the order requires remand, and the courts should not presume. When the court's decision is in error, it is **the duty of the court to review, reverse, and remand so that the court can correct the errors, and not to decide it. In this case, there were reports of assaults at Aegis Irving, TX facility, there had been Officer Mark Talley's misconduct in investigating Aegis and Plaintiff's Direct Supervisor "Steen"; Officer Mark Talley's two court of indecency with a Child; Irving Police Officer's Miller use of Excessive force against a Hispanic man during a traffic stop, David Walker 's Registered Sex Offender information; and Aegis failure to investigate and take any action against "Steen" after receiving Plaintiff's EEOC complaint and while Aegis knew that had hired Steen in violation of his Parole; Please see Appendix I and II in support of Petition for a Writ of Certiorari; Pet. App. II; K, L, M, N, O, P, Q, R, S, T, U, V].**

CONCLUSION AND PRAYER

The Court should grant this petition and directly address the implementation of TCHRA and Title VII as well as Advanced Telemarketing d/b/a Aegis Communication Inc Acts of Obstruction of Justice and Perjury, and each/all Anti Child and Adult Porn as passed by United States Congress and signed by President George W. Bush.

This Court should clarify the decision of Federal Court in Enron, MCI World Com, Martha Stewart, President Bush's administration and senior members of Republican Party and other cases of conviction of individuals and corporations for Obstruction of Justice **while not convicting Advance Telemarketing Corp d/b/a Aegis Communications Group for charges of Obstruction of Justice and Perjury**.

This Court should also clarify the reason for treating Ms. Pourgholam TCHRA and Title VII case differently then that of Sheila White and Reeve cases. The Court should also clarify the reason for applying standards of Summary Judgment and Final Judgment are different in Ms. Pourgholam case then that applied in other cases including but not limited to Cleotex. Corp case.

Respectfully Submitted,

/s/ Shahla Pourgholam

SHAHLA POURGHOLAM
Pro Se, Petitioner
P O Box 824311
Dallas, TX 75382

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